In the High Court of Judicature at Madras

Dated : 15.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.219 of 2014

The Commissioner of Income Tax,
Central Circle I, Coimbatore ... Appellant

Vs

M/s.Kumbakonam Silver Shop,
Salem ... Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.8.2013 made in ITA.No.1361/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2009-10, against the order of the Commissioner of Income Tax (Appeals)-II, dated 22/03/2013 and made in ITA No.100/11-12 against the order of the Deputy Commissioner of Income Tax, Central Circle-I, Coimbatore dated 30.11.2010 and made in PAN/GIR NO.AACFK1324F.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Ms.K.G.Usharani, SC
For Respondent : Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant - Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 29.8.2013 made in ITA.No.1361/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench (for brevity, the Tribunal) for the assessment year 2009-10.

3. The appeal has been admitted on 09.7.2014 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in directing the Assessing Officer to treat the cash seized to be first given credit as advance tax payment and then recompute the interest under Section 234 for the assessment year 2009-10 ? and
>
> 2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that Explanation 2 to Section 132B of the Act introduced with effect from 01.6.2013 is not clarificatory in nature and it takes effect only from 1st June 2013 and not retrospectively ?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal, Chennai 'C' Bench.
   Chennai.

2. The Deputy Commissioner of Income Tax,
   Central Circle-I, Coimbatore.

3. The Commissioner of Income Tax (Appeals)-II,
   Coimbatore.

TCA.No.219 of 2014

rgn (co)
rr ii (08/09/2020)