IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.1.2020
CORAM
THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR
Tax Case (Appeal) Nos.256, 458 and 459 of 2014

Commissioner of Income Tax
Media Circle
Chennai 600 034. : Appellant

Vs.

Shri.R.Rajinikanth
PAN: AAIPR1267L : Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 26.7.2013 made in ITA Nos.66, 65 and 64/Mds/2012, respectively against the order of Commissioner of Income Tax (Appeals), IV, Chennai dated 29/11/2011 and made in ITA.No.49/10-11, 48/10-11 and 47/10-11 respectively agianst the penalty order, dated 28.07.2010 and made in PA.No.AAIPR12671 of the Deputy Commissioner of Income Tax, Media Circle -II, Chennai against the assessment order,dated 27.12.2006, of Joint Commissioner of Income Tax, Media Range, Chennai and order, dated 31.03.2006 of Deputy Commissioner of Income Tax Media Circle-II, Chennai and order dated 31.03.2006, of Deputy Commissioner of Income Tax Media Circle-II, Chennai for the assessment year 2004-05, 2003-04 and 2002-03 respectively.

For Appellant : Ms.V.Pushpa
Junior Standing Counsel
For Respondent : Mr.A.S.Sriraman

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 26.7.2013 made in ITA Nos.64, 65 and 66/Mds/2012, for the Assessment Years 2002-2003, 2003-2004 and 2004-2005, by raising 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 law in deleting the penalty levied under Section 271(1)(c) on the additional income admitted by the assessee by filing a revised return consequent to survey?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the said admission of income was only an estimated income without appreciating the fact that there was no material evidence produced by the assessee in support of the claim of expenditure?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the penalty levied under Section 271(1)(c) of the Act, when the assessee had reversed the claim of bad debts consequent to survey operations under Section 153A of the Act?

(iv) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the quantum issue has been decided in favour of the assessee, hence penalty will not survive without appreciating the fact that the quantum addition was not deleted only the finding regarding the head of income under which the income has to be assessed?"

2. When the matters are taken up for hearing, learned Junior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax
   Media Circle
   Chennai 600 034.

2. Income Tax Appellate Tribunal,
   'D' Bench, Chennai.

3. The Deputy Commissioner of
   Income Tax,
   Media Circle II(ITC), Chennai-34.

4. The Commissioner of Income Tax(Appeals)-IV,
   121, Mahatma Gandhi Street, Chennai-600034.

5. The Joint Commissioner of Income Tax,
   Media Range, 121, M.G. Road,
   New Block, Chennai 600 034.

+1cc to Mr.M.Swaminathan, Advocate, SR.No.6544.
+1cc to Mr.S.Sridhar, Advocate, SR.No.5873.

T.C.(A) No.256, 458 & 459 of 2014

GJ(CO)
CSR: 02.03.2020