In the High Court of Judicature at Madras

Dated : 18.06.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Tax Case Appeal No.885 of 2014

Commissioner of Income Tax,
Central Circle III,
Chennai. ...Appellant

-vs-

M/s.RV Steels Private Limited,
4/2, Second Street,
B.N.Road, T.Nagar,
Chennai-600 017.
PAN: AACR2457B ...Respondent

Prayer: APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.05.2011 made in M.P.No.43/Mds/2011 in I.T.A.No.2358/Mds/2007 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05, preferred aginst the order of the, Income Tax Appellate Tribunal B Bench, Chennai, dated 18.7.2008 made in ITAT NO.2358/MDS/07, against the order dated 27.8.2007 made in CIT(A)/CHE/401/06-07, by the Commissioner of Income Tax (Appeals)-II, Chennai, against the order dated 26.12.2006, preferred by the Assistant Commissioner of Income Tax, Central Circle III(3)(i/c), Chennai-34.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel &
Ms.K.G.Usha Rani,
Standing Counsel
For Respondent: Mr.R.Sivaraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Ms.K.G.Usha Rani, learned Standing Counsel appearing

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for the appellant-Revenue and Mr.R.Sivaraman, learned counsel for the respondent-assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31.05.2011 made in M.P.No.43/Mds/2011 in I.T.A.No.2358/Mds/2007 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2004-05.

3. The appeal was admitted on 12.01.2015 on the following substantial questions of law:-

> "1) whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was correct in holding that the revenue raised facts and observations in the miscellaneous petition which were not rectifiable u/s.254 (2) of the Income Tax Act despite the fact that all were based upon the findings out of extensive investigation done by the assessing officer?
>
> 2) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the addition made under Section 68 of the Income Tax Act, 1961 being unexplained cash credit amounting to Rs.1,95,93,657/- was to be deleted.
>
> 3) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in presuming that the assessee provided complete names and addresses of the parties extending cash credits when the investigation of the assessing officer showed that they were all non-existent?
>
> 4) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was correct in presuming that the case credits from M/s.Divya Traders, M/s.Divya cements and M/s.Kalin Industries were genuine only because they were received through brokers and through cheques despite the fact that they were found to be bogus parties during investigation by the assessing officer?"

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

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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.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

To

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

2.The Income Tax Appellate Tribunal, 'B' Bench, Chennai.

3.The Commissioner Of Income Tax(Appeals)ii, Chennai.

4.The Assistant Commissioner of Income Tax,
Central Circle III(3)(i/c), Chennai-34.

TCA.No.885 of 2014

SSV(CO)
RV(16/09/2020)

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