IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) Nos.340, 341, 342, 343 and 344 of 2017

Principal Commissioner
of Income Tax, Central 2
No.108, Mahatma Gandhi Road
Chennai. ... Appellant/Appellant in all appeals

Vs.

Gomathi Radhakrishnan
No.931, 11th Sector, 69th Street
KK Nagar, Chennai. ... Respondent/ Respondent in all appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 29.07.2016 in ITA Nos.1617, 649, 1078, 682 and 683/Mds/2013.

Against the order of the Commissioner of Income Tax (Appeals) II, Chennai dt.6.5.2013, 30.1.2013, 8.2.2013, 8.2.13, 8.2.13 and made in ITA.No.82/11-12, 84/11-12, 86/11-12, 85/11-12, 86/11-12 aginst the order of the Assistant Commissioner of Income Tax, Central Circle II(1), Chennai, dt.24.6.2011 in PAN No.AAGPG0992H/03-04, 06-07, 08-09, 07-08, 08-09 against the Assessment order of the Deputy Commissioner of Income Tax, Central Circle II(1), Chennai, dt.31.12.2010 for the Assessment Year 2003-04, 2006-07, 2008-09, 2007-08 and 2008-09.

For Appellant : Ms.K.G.Usha Rani
Junior Standing Counsel
For Respondent : M/s.A.S.Sriraman & S.Sridhar

J U D G M E N T
(Judgment of the Court was 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, 'B' Bench, Chennai, by raising the following substantial question of law:

" TCA Nos.340 to 342 of 2017

(i) Whether on the facts and in the circumstances of the case and in law, the Appellate Tribunal was right in cancelling the penalty levied under Section 271(1)(c) of the Income Tax Act?

(ii) Whether on the facts and in the circumstances of the case and in law, in search cases where the returned income is lower than the assessed income, whether the penalty under Section 271(1)(c) is not attracted automatically in view of the special provisions of Explanation 5A to Section 271(1)(c) which are applicable to only search cases? And

(iii) Whether on the facts and in the circumstances of the case the Appellate Tribunal is correct in law stating that the provisions of Section 271AAA and not the provisions of Sub-section (1) to Section 271AAA read with Explanation to Sub-Section (4) of that Section, the provisions of Section 271AAA as applicable only to the assessment year relevant to the 'specified previous year'?

TCA Nos.343 & 344 of 2017

(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal i s correct in law in deleting the penalty levied by the Assessing Officer under Section 271(1)(c) of the Income Tax Act, 1961 attributable to the addition of Rs.40,50,000/- and Rs.94,00,000/- respectively made in the assessment in the case of the assessee, which was confirmed by the CIT (A)?"

2. When the matter was taken up for hearing, the learned 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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.Tbe Income Tax Appellate Tribunal
'B' Bench,Chennai.

2.The Commissioner of Income Tax, (A)(C) II,
No.108, Mahatma Gandhi Road
Chennai.

3.The Assistant Commissioner of Income Tax,
Central Circle II(1), Chennai.

4.The Deputy Commissioner of Income Tax,
Central Circle II(1),
1st Floor, New Building
46, M.G.Road,
Nungambakkam, Chennai-34.

Gj(co)
krd 4/9

T.C.(A) Nos.340 to 344 of 2017