IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.02.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.1175 of 2009

Commissioner of Income Tax,
Central II, Chennai. ... Appellant/Respondent

Vs.

M.K.Siraj ... Respondent/Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, Chennai dated 23.10.2008 in I.T(SS). A.No.164/Mds/2006 block period 22.01.2003 and this appeal against the Commissioner of Income Tax (Appeals) II, Chennai 34 order dated 31.03.2006 made in I.T.A. No.203/2004-2005 for the assessment year Block period from 01.04.1996 to 31.03.2002 and 01.04.2002 to 22.01.2003 and against the Deputy Commissioner of Income Tax (I/C) Central Circle 11(3) Chennai 34 order dated 31.01.2005 made in PAN/GIR No. AAJPS5966/N/26791S for the assessment year relevant to Block period 1996-1997 to 2001-2002 from 01.04.2002 to 22.01.2003.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Ms.K.G.Usha Rani,
Junior Standing Counsel

For Respondent : Mr.N.V.Balaji

JUDGMENT
(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.N.V.Balaji, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 23.10.2008 made in I.T(SS).A.No.164/Mds/2006 on the file of the Income Tax Appellate Tribunal, Chennai, "B"

Bench (for brevity, the Tribunal) for the block period 22.01.2003.

3.The appeal was admitted on 12.11.2009 on the following substantial question of law:

> "1)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made by the assessing officer to the tune of Rs.2,03,71,000/- towards cash credit as unexplained investment under Section 68 of the Income Tax Act, 1961 is valid in law?
>
> 2)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition and the new facts presented by the assessee before the Commissioner of Income Tax (Appeals) and the assessing officer was not given an opportunity as envisaged under Rule 46A of the Income Tax Act, 1961 to refute the facts presented by the assessee before the Commissioner of Income Tax (Appeals) is valid?"

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 08.08.2019 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 these cases are less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial question of law framed is left open. In the event the tax effect in this case 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

True Copy

Sub-Assistant Registrar

To

1.The Income Tax Appellate Tribunal, Chennai, "B" Bench, Chennai

2.The Commissioner of Income Tax
(Appeals)II
Chennai 34.

3.The Deputy Commissioner of Income Tax (I/C)
Central Circle 11(3)
Chennai 34.

T.C.A.No.1175 of 2009

KJ(CO)
SP(19/03/2021)