IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

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

T.C.A.No.1219 of 2009

The Commissioner of Income-Tax,
Central-II, Chennai. ... Appellant

Vs.

M/s.Hindustan Transport Co.,
39, Wall Tax Road, Chennai - 600 079. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 16.03.2009 in IT(SS). A.No.154/Mds/2007, Block Period 01.04.1996 to 31.03.2002 & 01.04.2002 to 22.01.2003 Appeal against the order of the Commissioner of Income Tax(Appeals)-II, Chennai-121, M.G. Road, Nungambakkam, Chennai-34, made in (IT(A)/CHE/456/06-07, order dated 16/08/2007, Block Period, 01.04.96 to 31.03.2002 and 01.04.2002 to 22.01.2003, Appeal against the order of the Deputy Commissioner of Income Tax, Central Circle II(3) 1st Floor, New Building, 108, M.G.Road, Nungambakkam, Chennai-34 made in G.I.No./P.A.No.26301-H/AAAFH/214M.

For Appellant : Mr.T.R.Senthil Kumar
Senior 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 16.03.2009 made in IT(SS). A.No.154/Mds/2007 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Block Period 01.04.1996 to 31.03.2002 & 01.04.2002 to 22.01.2003.

3.The appeal was admitted on 23.11.2009 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 right in deleting the addition of Rs.95,01,302/- in respect of inflation of expenses, even though the assessing officer computed the undisclosed income on the basis of seized documents A1(CG)-6 and A1(CG) 30 as mentioned clearly in the assessment order?
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> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in confirming the order of the Commissioner of Income Tax (Appeals), without appreciating the facts and law, even though the assessee placed fresh evidences and fresh materials before the first appellate authority and the revenue was not afforded an opportunity as envisaged under Rule 46A under the Income Tax Rules?
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the assessee paid advance tax on his income for the assessment year 2002-03 cannot be treated as undisclosed income for block period?"

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 this case is 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 questions of law framed are 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.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Central-II, Chennai.

3. The Commissioner of Income Tax(Appeals)-II,
121, M.G.Road, Nungambakkam, Chennai-34.

4. The Deputy Commissioner of Income Tax,
Central Circle-II(3), 1st Floor, New Building,
108, M.G. Road, Nungambakkam, Chennai-34.

+1cc to Mr.N.V.Balaji, Advocate SR.No.19223

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.18573

T.C.A.No.1219 of 2009

SR-II(CO)
GMY(30/04/2021)