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.1251 of 2009

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

K.V.Salim ... Respondent

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.153/Mds/2007 block period 22.01.2003 and this appeal preferred against the Commissioner of Income Tax (Appeals)II, Chennai 34 order dated 27.08.2007 made in Appeal No.CIT(A)/ CHE/202/2004-2005 for the assessment year Block assessment for the period ending 22.01.2003 and against the Deputy Commissioner of Income Tax, Central Circle 11(3) Chennai 34 order dated 31.01.2005 made in PAN/GIR. No. AKRPS5126N/26795S for the assessment year relevant to Block period 1986-1987 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.153/Mds/2007 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 24.11.2009 on the following substantial questions of law:

"1)Whether in the facts and circumstances of the case, the Tribunal was right in confirming the finding of CIT (A) that only 2 lakhs paid in cash was to be added on account of investment made in Galaxy Apartment even though satisfactory explanation was not given by the assessee?

2)Whether the Tribunal was right in holding that the profit made from M/s.Swadshi Petroleum amounting to Rs.1,98,665/- is not to be added to the income?

3)Whether the Tribunal was right in upholding the finding of the CIT (A) in deleting the addition of Rs.28,24,650/- made on account of unexplained income?

4)Whether it was proper for the Tribunal not adjudicate grounds 3 to 3.3 raised by the department which is contrary to the judgment of Madras High Court rendered in the case of South India Surgical Co. Limited Vs. ACIT reported in 263 ITR 5 which clearly states that if a ground is raised and the same has not been adjudicated then it would give raise to substantial question of law?"

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,
Central Circle 11(3)
Chennai 34.

+1 CC to Mr.T.R.Senthil Kumar, Advocate sr 10251.
+1 CC to Mr.N.V.Balaji, Advocate sr 10856.

T.C.A.No.1251 of 2009

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