IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A.NO.1414 OF 2009

Smt.C.Padma @ R.Padma Udayar,
No.20, 5th Street, Rutland Gate,
Chennai-600 006.
(PAN No.AAHPP 0235H) ...Appellant

vs

The Deputy Commissioner of Income Tax,
Central Circle I(3),
Chennai-600 034. ...Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 21.08.2009 passed in I.T.A.No.728/Mds/2007 on the file of the Income Tax Appellate Tribunal Bench 'A', Chennai for the assessment year 2003-04 preferred against the order of the Commissioner of Income Tax (Appeals) I, Chennai-34 dated 12.12.2006 made in ITA No.46/06-07 filed against the Assessment Order of the Deputy Commissioner of Income Tax, Central Circle I (3), Chennai-34 dated 27.03.2006 in PAN No.AAHPP0235H for the Assessment year 2003-2004.

For Appellant : Mr.A.Thiagarajan,
Senior Counsel
for Mr.S.Ramesh Kumar

For Respondent : Ms.K.G.Usha Rani,
Standing Counsel

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/assessee, filed under Section 260A of the Income Tax Act, 1961 (for brevity “the Act”), is directed against the order dated 21.08.2009 made in I.T.A.No.728/Mds/2007 on the file of the Income Tax Appellate Tribunal Bench 'A', Chennai (for brevity “the Tribunal”) for the assessment year 2003-04.

2.The appeal was admitted on 22.12.2009, on the following substantial questions of law:-

> "1.Whether on the facts and circumstances of the case, the Tribunal was correct in shifting the burden of proof on the appellant is correct in law when the appellant proved the claim with contemporaneous documents?
>
> 2.Whether on the facts and circumstances of the case, the Tribunal was right in reducing the disallowance by 50% even after holding that the appellant was owing and in enjoyment of 44.12. acres on agricultural land is correct in law? and
>
> 3.Whether on the facts and circumstances of the case the Tribunal was right in recording finding that the certificate issued by H.Akthar Basha was treated as fictitious and not as fact is correct in law?"

3.Heard Mr.A.Thiyagarajan, learned Senior Counsel appearing for Mr.S.Ramesh Kumar, learned counsel for the appellant/assessee and Ms.K.G.Usha Rani, learned Standing Counsel appearing for the respondent/Revenue.

4.The assessee, an individual, filed her return of income for the assessment year 2003-04 reporting total income of Rs.8,34,150/- of which, the assessee claimed a sum of Rs.7,38,362/- to be agricultural income. The Assessing Officer did not accept the same and treated the income as 'income from other sources' on the ground that the documents concerning the property in question did not include any of the standing crops or trees, which according to the assessee, were there viz., coconut and mango trees. Aggrieved by the assessment order dated 27.03.2006, the assessee preferred appeal to the Commissioner of Income Tax (Appeals)-I, Chennai (for brevity "the CIT(A)"). The CIT(A) being the first appellate authority, re-appreciated the facts and granted partial relief to the assessee and estimated the agricultural income at the rate of Rs.5,000/- per acre and computed the same at Rs.2,20,600/-. Therefore, the balance amount of Rs.5,17,762/- was confirmed. Aggrieved by such order, the assessee preferred appeal to the Tribunal. The Tribunal has dismissed the assessee's appeal. Questioning the correctness of the said order, the assessee is before us raising the above substantial questions of law.

5.Before the Assessing Officer as well as the CIT(A) and the Tribunal, the assessee was unable to conclusively establish that there were standing trees, which according to the assessee were more than 1200 mango trees and 1800 coconut trees. A letter issued by a third party was produced stating that he has taken on lease the mango trees as well as the coconut trees. The Tribunal pointed out that these documents were never produced before the Assessing Officer. That apart, the Tribunal took note of the finding rendered by the CIT(A), who after verification of the land documents, held that there was no mention of any standing trees in the said property. Thus, the Tribunal concluded that there is no cogent evidence regarding the agricultural income and expenditure incurred in agricultural operations have been provided and that mere possession of the land will not entitle the assessee to claim amounts as agricultural income. Thus, the stand taken by the assessee was rejected as a self-serving statement. After making such an observation, the Tribunal granted further relief over and above the relief granted by the CIT(A) by restricting the disallowance to 50% and issuing direction to the Assessing Officer to treat 50% of the amount Rs.7,38,362/- as agricultural income and treat the rest as 'income from other sources'. Thus, we find that on the basis of the documents, which were available, the assessee has been granted reasonable relief and in a tax case appeal filed under Section 260A of the Act, we are required to decide the substantial question of law and we find none in this case. Therefore, the appeal fails and is dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Deputy Commissioner of Income Tax,
Central Circle I(3), Chennai-600 034.

2.The Assistant Registrar,
The Income Tax Appellate
Tribunal Bench 'A',
Chennai.

3.The Commissioner of Income Tax,
Appeals-I, Chennai.

+1cc to Mr.S.Ramesh Kumar, Advocate, S.R.No.45653
+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.45634

T.C.A.No.1414 of 2009

RSI(CO)
RVM(07/10/2021)