IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.02.2021

CORAM:

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

T.C.A.No.1049 of 2010

Commissioner of Income Tax,
Chennai. ...Appellant

Vs.

Y.V.Subramaniam ...Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 07.05.2010 in I.T.A.No.1597/Mds/2007 for the assessment year 2002-03 against the order of the Assistant Commissioner of Income Tax, Central Circle 11(4) Nungambakkam, Chennai 34 dated 31/12/2007 in GIR No/PAN AASPS4780P for the assessment year 2002-03 against the order of the Commissioner of Income Tax(Central), Chennai II, Chennai 34 dated 28/03/2007 in C.No.2744/4/2006-07/C-II for the assessment year 2002-03.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
assisted by Ms.V.Pushpa

For Respondent : M/s.Profexs Associates

JUDGMENT

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

Challenging the order passed by the Income Tax Appellate Tribunal, Madras "C" Bench in I.T.A.No.1597/Mds/2007, the Revenue has filed the above appeal.

2.The Assessing Officer completed the assessment under Section 143 (3) on 01.03.2005, assessing a total income of Rs.40,72,410/-. The assessment was done by resorting to Section 263 on 28.03.2007 observing that the source for the investment Rs.1.73 crores in immovable property were not verified and that there were huge unsecured loans, were not properly enquired by the Assessing Officer. The Assessing Officer had completed the assessment under Section 143 (3) read with Section 263 on 31.12.2007, assessing the total income at Rs.1,27,41,000/-. On appeal by the assessee against the order of CIT passed under Section 263 of the

Income Tax Act held that the order was passed after making full verification and no reasons were given and had given an abrupt finding that assessment order was erroneous insofar as prejudicial to the interest of the revenue and that there was confirmation letters available before the Assessing Officer and therefore, the order passed lacks jurisdiction. In these circumstances, the Tribunal allowed the appeal filed by the assessee. Aggrieved by the order passed by the Income Tax Appellate Tribunal, the Department filed the above appeal.

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

> "Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in setting aside the order passed under Section 263 of the Income Tax Act on the ground that CIT lacks jurisdiction?"

4.The Tribunal, while allowing the assessee's appeal, observed that the assessment order was passed after making full verification and the order of the CIT is based on no reason and he has simply given an abrupt finding that the assessment order is erroneous insofar as it is prejudicial to the interest of the Revenue. Further, the Tribunal observed that complete details were filed in the form of confirmation letters before the Assessing Office and he has examined and investigated the same in its correct perspective. The Tribunal found no error in the assessment order and also found that the CIT lacks jurisdiction to revise the assessment order in question. Ultimately, the Tribunal set aside the order passed by the CIT under Section 263 and restored the order passed by the Assessing Officer.

5.On a perusal of the order passed by the Tribunal, it is clear that the Tribunal has categorically held that the order passed by CIT is based on no reason and he has simply given an abrupt finding that the assessment order is erroneous. Further, the Tribunal, taking into consideration all the materials available on record, found that the CIT lacks jurisdiction to revise the assessment order passed by the Assessing Officer. When the Tribunal has given a categorical finding with regard to the order passed by the CIT, we do not find any error or irregularity in the order passed by the Tribunal. Further, we find no ground much less any substantial question of law to interfere with the order passed by the Tribunal. The appeal is liable to be dismissed. Accordingly, the Tax Case Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Income Tax,
Central Circle 11(4),
Nungambakkam, Chennai 34.

3.The Commissioner of Income Tax,
Central , Chennai II, Chennai 34.

+1cc to Mr.M.Swaminathan, Advocate SR.No.9679

T.C.A.No.1049 of 2010

NRL(CO)
KKV/08/03/2021