IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.Nos.1148 to 1152 of 2010

Commissioner of Income Tax,
Central -1,
Chennai. ... Appellant in all TCAs

v.

Shri T.R. Pachamuthu,
No.4 & 5, Prakasam Street,
Janaki Nagar,Valasaravakkam,
Chennai - 600087. ... Respondent in all TCAs

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "A" Bench, dated 30.03.2010 in ITA.Nos.1673, 1674, 1675, 1683 & 1511/Mds/2007 for the Assessment Years 2002-03, 2003-04, 2004-05 and 2005-06 respectively. Against the appellate order passed by the commissioner of Income Tax (A) dated 30.03.2007 in ITA.NO.220/06-07, Assessment Year 2005-2006,219/06-07 Assessment Year 2004-2005,218/06-07,Assessment Year 2003-2004, 217/06-07,Assessment Year 2002-2003 respectively, and against the order passed by the Assistant Commissioner of Income Tax Central circle1(3),Chennai 34 dated 26.12.2006 PA/GIR NO: HMPP1440N,Assessment Year 2003-2004 & 2002-03,2004-2005,2005-2006 respectively.

For Appellant (in all TCAs) : Mr.T.R. Senthil Kumar
Senior Standing Counsel

For Respondent (in all TCAs) : Mr. G. Baskar

COMMON 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. G.Baskar, learned counsel for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 30.03.2010 made in ITA.Nos.1673, 1674, 1675, 1683 & 1511/Mds/2007 on the file of the Income

Tax Appellate Tribunal, Chennai, ''A'' Bench (for brevity, the Tribunal) for the Assessment Years Assessment Years 2002-03, 2003-04, 2004-05 and 2005-06.

3. In the above appeals, the assessee has raised the following Substantial Questions of Law for consideration:

" (i) Whether on the facts and in the Circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the deletion of the additions towards the principal and interest in respect of the unexplained pronote loans stated to be taken on behalf of M/s.Valliammal Society even though the material, being copies of the pronotes signed by the assessee discovered during the search constituted a valid piece of evidence, wrongly shifting the onus of proof on the assessee under Section 132(4A), to the Assessing Officer, especially when M/s. Valliammal Society has not owned up the loans ?

(ii) Whether on the facts and in the Circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the additions on account of unexplained cash deposits made by the assessee wrongly assuming availability of opening cash balance even though no accounts have been maintained and the assessee has not satisfactorily explained each deposit linking with specific source therefor, that too by making a wrong reference to para 65 of the Tribunal's order in the case of Smt.P.Easwari which dealt with some other issue?

iii. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition of Rs.25 lakhs being unexplained cash paid made for removing encroachers without appreciating that the presumption as per the sale agreement was that such amount had actually been paid and the onus of proving that no such payment was made to the encroachers was on the assessee ? "

4. The learned Senior Standing Counsel appearing for the appellant submits that the above appeals are 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 respective cases is less than the threshold limit.

5. In the light of the said submissions, the above Tax Case Appeals are dismissed on account of the Low Tax Effect. The substantial questions of law framed is left open. In the event the tax effect in the respective cases 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Rj
To

THE INCOME TAX APPELLATE TRIBUNAL,

CHENNAI "A" BENCH.

2. THE COMMISSIONER OF INCOME TAX (A),CHENNAI.

3.THE ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE1(3), CHENNAI 34

4 THE COMMISSIONER OF INCOME TAX ,CENTRAL I,CHENNAI.

+1cc to Mr.T.R.Senthil Kumar , Advocate SR.No. 24548
+1cc to Mr.G.Baskar, Advocate SR.No. 24481

T.C.A.Nos.1148 to 1152 of 2010

A.SK(29.06.2021)