



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

T.C.A. No.301 of 2010

M/s.Jaidayal Prannath Kapur
70/86, Godown Street,
Chennai - 600 001.

... Appellant

Vs.

Commissioner of Income Tax-VIII,
Chennai.

... Respondent

Tax Case Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order, dated 02.01.2009, passed by the Income Tax Appellate Tribunal, Chennai "D" Bench, in I.T.A.No.1816/Mds/2008, for the Assessment Year 2002-03.

Preferred against the order passed by the Commissioner of Income Tax (Appeals)-IX, Chennai-34 dated 03.07.2008 made in I.T.A.No.128/07-08 preferred against the order passed by the Income Tax Officer, Ward VIII (4), Chennai-6 dated 19.12.2007 in PAN AAFFJ3186G for the assessment year 2002-03.

For Appellant : Mr.T.Vasudevan

For Respondent : Mrs.V.Pushpa
Standing Counsel

J U D G M E N T

(Judgment was delivered by T.S. SIVAGNANAM, J.)

This Tax Case Appeal filed by the assessee under Section 260-A of the Income Tax Act, 1961 ("the Act" for brevity), is directed against the order, dated 02.01.2009, passed by the Income Tax Appellate Tribunal, Chennai "D" Bench, in I.T.A.No.1816/Mds/2008, for the Assessment Year 2002-03.

2.The appeal was admitted on 12.04.2010 to decide the following substantial questions of law :

"1.Whether the Tribunal was justified in upholding the reopening by issue of notice u/s.148 for the purpose of assessing a 'deemed income' u/s.69



wihout there being reason to believe the escapement of 'real income'?

2.Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in confirming the addition of Rs.70,13,506/- under Section 69 as unexplained investment of the amount spent out on the purchase of shares when the source remains undisputed and forms part of accounts?"

3.We have elaborately heard Mr.T.Vasudevan, learned counsel for the appellant/assessee and Mrs.V.Pushpa, learned Standing Counsel appearing for the respondent/Revenue.

4.The assessment for the Assessment Year under consideration, AY 2002-03, was reopened and notice under Section 148 of the Act was issued. From the findings recorded by the Assessing Officer in the Assessment Order, dated 19.12.2007, we find that, initially, the assessee did not extend full cooperation in the reopened assessment proceedings, and ultimately, notice was issued under Section 142(1) of the Act calling upon the assessee to furnish the details of the source of payment of a sum of Rs.60,63,000/- by cash to M/s.Aditya Securities Ltd., and another amount of Rs.9,50,000/- by Demand Draft to the very same company. The assessee, by letter dated 19.11.2007, confirmed the purchase of shares amounting to Rs.2,00,34,125/- through the said company for the year ended 31.03.2002 and also Rs.60,63,000/- paid to the said company by cash on various dates and another amount of Rs.9,50,000/- paid by Demand Draft. This was a candid admission made by the assessee before the Assessing Officer, which has not been disputed even before us. When the assessee was questioned as regards the nature and source of payment, they stated that Rs.98,40,421/- was due from Sundry Debtors as on 31.03.1999. The assessee was requested to furnish the name and address of the Sundry Debtors who gave/settled their amounts by cash with date and the hearing of the case was postponed. However, the assessee was unable to provide any details and filed an affidavit, which was rejected by the Assessing Officer as baseless. Since the assessee has failed to furnish the nature and source for Rs.70,13,506/- paid to M/s.Aditya Securities Ltd., and failed to furnish the name and address of the Sundry Debtors, who they claim to have paid/settled their amounts to the assessee, the Assessing Officer rightly drew adverse inference against the assessee in the absence of any documentary evidence and completed the assessment by order dated 19.12.2007. Aggrieved by the same, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals)-IX, Chennai ("CIT(A)" for brevity).



5.The CIT(A) once again re-appreciated the factual position and agreed with the Assessing Officer, as the assessee had not furnished any evidence regarding the claim made by them. The CIT(A) also noted that the assessee failed to furnish the name and address of the Sundry Debtors, so that the Assessing Officer could verify. He also found from the Assessment Order that the approach of the Assessing Officer was reasonable and despite granting sufficient time, the assessee was unable to satisfy the Department by producing necessary documents. Resultantly, the appeal filed was dismissed by the CIT(A) by order dated 03.07.2008. Aggrieved by such order, the assessee preferred an appeal to the Tribunal.

6.The Tribunal, in our considered view, had considered the factual matrix and taken note of all the grounds urged by the assessee and concurred with the factual findings recorded by the Assessing Officer as well as the CIT(A) that the assessee could not furnish any details regarding the payments received from the Sundry Debtors and that even their names could not be furnished, and that apart, the Tribunal has recorded that the assessee had admitted that income details are available with the assessee and in the absence of any details, the Tribunal rightly held that it is impossible to believe the theory that the assessee had received the payments from its old Sundry Debtors after a gap of two to three years, and accordingly, the appeal was dismissed.

7.Thus, we find that the entire factual matrix has been analyzed by the two authorities and the Tribunal, and on account of the inability of the assessee to furnish the details called for, no relief was granted to the assessee. The position has not improved in any manner before us and the assessee is in the same state of affairs. Therefore, we find there is no question of law much less substantial question of law for consideration in this appeal. Therefore, the Tax Case Appeal is dismissed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

mkkn

To

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



2.The Commissioner of Income Tax-VIII,
Chennai.

3. Commissioner of Income Tax (APPEALS) IX
Chennai -34

4. Income Tax Officer,
Ward VIII (4), Chennai -6

+1cc to Mr. M.Swaminathan, Advocate, SR.No.38935

T.C.A. No.301 of 2010

PM(CO)
PM(03/09/2021)