IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.551 of 2019

Principal Commissioner of
Income Tax, Central 2,
No.121, Mahatma Gandhi Road,
Chennai - 600 034. ...Appellant/Respondent

Vs

R.P.Darmalingam ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 05.10.2018 made in ITA.No.1100/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench, for the assessment year 2009-10, against the order dated 29.12.2017 made in ITA.Nos.217/16-17 on the file of the Commissioner of Income Tax(Appeals)18, Chennai-600 034, for the Assessment Year 2009-10 and against the order dated 31.03.2016 made in G.I.R.No/PAN No.AEAPD7363R on the file of the Assistant Commissioner of Income Tax, Central Circle-(2), for the assessment year 2009-2010.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel

For Respondent: Mr.R.Murali

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

This appeal, filed by the Revenue, is directed against the order dated 05.10.2018 made in ITA.No.1100/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench (for brevity, the Tribunal) for the assessment year 2009-10.

2. The appellant-Revenue has raised the following substantial questions of law for consideration:

"1. Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that the assessing officer cannot initiate proceedings under Section 153A of the I.T. Act, where there was no incriminating material found during the course of search operation u/s. 132 of the Act?

2. Whether on the facts and in the circumstances of the case, the ITAT was correct in law in placing reliance on SLP dismissal simpliciter in the case of PCIT v. Meeta Gutgutia (96 taxmann.com 468), when the issue of jurisdiction u/s. 153A of the I.T. Act was not at all before the Hon'ble Supreme Court in the said SLP?

3. Whether on the facts and circumstances of the case, the Appellate Tribunal was justified in deciding the impugned issue on the basis of SLP (Special Leave Petition) dismissal simpliciter by the Hon'be Supreme Court in the case of Meeta Gutgutia, without taking cognizance of the well settled ratio that SLP dismissal simpliciter has no binding effect, as laid down in the cases of CIT v. Geeta Ramakrishna Mills (P) Ltd. (288 ITR 489)(Mad.) and Kunhayammed v. State of Kerala (245 ITR 360)(SC)?"

3. We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing for the appellant-Revenue and Mr.R.Murali, learned counsel for the respondent.

4. The learned Senior Standing Counsel appearing 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 this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said

circular, liberty is granted to the Revenue to file a petition before this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To
1. The Income Tax Appellate Tribunal,
   Madras 'B' Bench.

2. Principal Commissioner of
   Income Tax, Central 2,
   No.121, Mahatma Gandhi Road,
   Chennai - 600 034.

3. The Commissioner of Income Tax(Appeals)18,
   Chennai-600 034.

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

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.18933

+1cc to Mr.R.Murali, Advocate, S.R.No.19394

TCA.No.551 of 2019

NS(CO)
KM(29/04/2021)