IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM

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

T.C.A.NO.731 OF 2013

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

M/s.Laxmi Jewellery,
No.65, NSC Bose Road,
Sowcarpet,
Chennai-600 079. ... Respondent

PRAYER:-

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 08.05.2013 made in I.T.A.No.685/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai for the assessment year 2008-09.

This Appeal filed against the Order of the Income Tax Appeal Tribunal, Madras 'D' Bench, dated 08.05.2013 in I.T.A.No.685/MDS/2012 in Assessment Year 2008-2009, against the Commissioner of Income Tax(Appeals)-IV in ITA.No.167/2010-11/ A-IV, dated 15.12.2011 in PAN.No.AAAFL0161F in assessment year 2008-2009, against the Assistant Commissioner of Income Tax, PAN.No.AAAFL0161F in Assessment Year 2008-2009.

For Appellant : Ms.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.T.Prmod Kumar Chopda

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

This appeal, by the appellant/Revenue, filed under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), is directed against the order dated 08.05.2013 made in I.T.A.No.685/Mds/2012 on the file of the Income Tax Appellate Tribunal 'D' Bench, Chennai (for brevity "the Tribunal") for the assessment year 2008-09.

2. The appeal was admitted 04.03.2014, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in not considering the ground raised by the revenue with respect to the addition of 6381.2 grams of unaccounted gold to the closing stock, which the assessee claimed to have belonged to Mr.Arun Jain."

3. Heard Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant and Mr.T.Pramod Kumar Chopda, learned counsel for the respondent.

4. The assessee is a manufacturer of gold jewellery and filed its return of income on 27.09.2008, for the assessment year under consideration AY 2008-09. The case was selected for scrutiny and notice under Section 143(2) of the Act dated 20.08.2009 was issued. During the course of assessment proceedings, the Assessing Officer made certain additions one of which was unaccounted purchase of gold from third parties and accordingly, the assessment was completed by order dated 22.12.2010, making an addition. Aggrieved by the same, the assessee preferred appeal before the Commissioner of Income Tax (Appeals)-IV, Chennai (for brevity "the CIT(A)"), who deleted the addition. Aggrieved over which, the Revenue preferred appeal before the Tribunal, which has been dismissed by the impugned order.

5. The finding recorded by the Assessing Officer with regard to the allegation of unaccounted gold purchases was considered in depth by the CIT(T) and the documents, which were placed before the CIT(A) were examined and the CIT(A) recorded a finding that the gold loan was received by the assessee from one Mr.Arun Jain. Further, the assessee had given all documents relating to the gold loans taken from Mr.Arun Jain, which were forwarded to the Assessing Officer probably with a view to obtain a report. The Assessing Officer did not draw any adverse inference about the gold loans taken by the assessee from Mr.Arun Jain. Furthermore, it was found that Mr.Arun Jain is an income tax assessee. Further, on facts, it was found that Mr.Arun Jain had closed down his gold jewellery shop and after closing down his business, the golds were handed over to the assessee. Further, the CIT(A) faulted the Assessing Officer for not causing any enquiry and simply stating in the remand report

that the addition may be confirmed and sustained. Thus, on examination of the factual position, relief was granted to the assessee. The correctness of this finding was tested by the Tribunal once over again, the factual details were considered and the Tribunal in Paragraph No.5 of the impugned order, has concurred with the decision of the CIT(A).

6. Thus, we find that there is no question of law, much less substantial question of law, arising for consideration in this appeal, as the matter is entirely factual and the first appellate authority and the Tribunal have decided the issue in favour of the assessee.

7. Thus, for the above reasons, this tax case appeal by the Revenue is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

To

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

2. The Assistant Commissioner of Income Tax,
Business Circle - XI, IInd Floor,
Kannammai Building,
No.611, Anna Salai,
Chennai - 600 006.

3. The Commissioner of Income Tax (Appeals)-IV,
No.121, Mahatma Gandhi Road,
Chennai - 600 034.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.39510
+1cc to Mr.T.Prmod Kumar Chopda, Advocate, S.R.No.39318

T.C.A.NO.731 OF 2013

VSN-II(CO)
PBS/27/08/2021