IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY

AND

THE HON'BLE MRS.JUSTICE R.HEMALATHA

T.C.A.Nos.894 & 895 of 2013

Commissioner of Income Tax,
Trichy ..Appellant in both TCAs

v.

Smt. T. Manjula,
21, Vaduvood Middle street,
Thillai Nagar,
Tiruchy - 620 018. ...Respondent in both TCAs

T.C.A. No.894 /2012 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 05.04.2013 in ITA.No.1705/Mds/2012 for the Assessment Year 2005-2006.

Appeal against the order of the Commissioner of Income Tax (Appeals) No.44 Williams Road, Contonment, Tiruchirapalli - 620 001 made in ITA.No.247/2010-11 dated 15.06.2012, Assessment year 2005-2006.

Appeal against the order of the Additional Commissioner of Income Tax, Range-II, 44, Williams Road, Trichy - 620 001 made in PAN No.AASPM1558R dated 28.12.2020 Assessment year 2005-2006.

T.C.A. No.895/2012 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 05.04.2013 in ITA.No.1706/Mds/2012 for the Assessment Year 2006-2007.

Appeal against the order of the Commissioner of Income Tax (Appeals, No.44, Williams Road, Contonment, tiruchirapalli -625 001 made in ITA.No.246/2010-2011 dated 15.06.2012 Assessment year 2006-2007.

Appeal against the order of the Additional Commissioner of Income Tax Range-II, 44, Williams Road, Trichy - 620 001 made in PAN No.AASPM1558R dated 28.12.2010 Assessment year 2006-2007.

For Appellant (in both TCAs) : Ms.V.Pushpa
Standing Counsel

For Respondents (in both TCAs) : M.Kaushik

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

We have heard Ms. V. Pushpa, learned Standing Counsel for the appellant/Revenue and M. Kaushik, learned counsel for the respondent/assessee.

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 05.04.2013 made respectively in ITA.Nos.1705/Mds/2012 & 1706/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai, ''C'' Bench (for brevity, the Tribunal) for the Assessment Years 2005-2006 and 2006-2007.

3. The appeals were admitted on the following substantial questions of law:

> “ (i) Whether on and facts and in the circumstances of the case, the Tribunal was right In holding that the gross profit rate is to be fixed at 10.5% as against 12.5% fixed by the assessing officer? ?
>
> (ii) Whether on and facts and in the circumstances of the case, the Tribunal was right in holding that individual payments cannot be aggregated even if they are paid on the same day and thereby deleting the disallowance under Section 40A3?
>
> (iii) Whether on and facts and in the circumstances of the case, the Tribunal was right in deleting the disallowance made under Section 40A3 on the ground that said disallowance cannot be made where the assessing officer had estimated the gross profit?”

4. The learned 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 this case 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 are left open. In the event the tax effect in all these cases are 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

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Commissioner of Income Tax
   Trichy.

3. The Commissioner of Income Tax (Appeals)
   No.44, Williams Road,
   Contonment, Trichy - 600 001

4. The Additional Commissioner of Income Tax (Appeals)
   No.44, Williams Road,
   Contonment, Trichy - 600 001

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.28771

T.C.A.Nos. 894 & 895 of 2013

SR.NO.-II(CO)
RGA(20/07/2021)