IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.06.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

T.C.A.Nos. 425 to 428 of 2014

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

VS.

Mr. M.K. Siraj,
39 Wall Tax Road,
Chennai - 600 079. ... Respondent in T.C.A. No.425 /2014

Mr. M.K. Sahira
39 Wall Tax Road,
Chennai - 600 079. ... Respondent in T.C.A. No.426 /2014

Mr. M.K.Sameera
39 Wall Tax Road,
Chennai - 600 079. ... Respondent in T.C.A. No.427 /2014

Mr. M.K. Sareena
39 Wall Tax Road,
Chennai - 600 079. ... Respondent in T.C.A. No.428 /2014

T.C.A. No.425 /2014 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 07.05.2013 in ITA.No.291/Mds/2013 for the Assessment Year 2007-2008.

Preferred against the Order of the Commissioner of Income Tax (Appeals)-II, Chennai dated 18/12/2012 in ITA.No. 446/2009-2010/A.II preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (4), Chennai dated 31/12/2010 in P.A.No. AAJPS5966N preferred against the order of the Assistant Commissioner of Income Tax, Central Circle I (3), Chennai dated 31/12/2009 in PAN AAJPS5966N.

T.C.A. No.426/2014 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 07.05.2013 in

ITA.No.292/Mds/2013 for the Assessment Year 2007-2008.

Preferred against the Order of the Commissioner of Income Tax (Appeals)-II, Chennai dated 18/12/2012 in ITA.No. 214/2011-2012/A.II preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (3)(i/c), Chennai dated 23/12/2011 in P.A.No. AAJPS6233J preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (3)(I/C), Chennai dated 24/12/2009 in GI.No./P.A.No.AAJPS6233J.

T.C.A. No.427 /2014 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 07.05.2013 in ITA.No.293/Mds/2013 for the Assessment Year 2007-2008.

TCA.427 of 2014: Preferred against the order of the Commissioner of Income TAX (Appeals)-II, Chennai – 34 dated 18/2/2012 in ITA.No. 216/2009-2010/A.II, preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (3) (I/C), Chennai dated 23/12/2011 in P.A.No.AAJPS6228B preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (3) (I/c), Chennai dated 24/12/2009 in P.A.No.AAJPS6228B

T.C.A. No.428/2014 : Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 07.05.2013 in ITA.No.294/Mds/2013 for the Assessment Year 2007-2008.

TCA.No. 428 of 2014: Preferred against the order of the Commissioner of Income Tax (Appeals)-II, chennai dated 18/12/2012 in ITA.No. 215/2011-2012/A.II preferred against the Order of the Assistant Commissioner of Income Tax, Central Circle II (3), (i/c), Chennai dated 29/12/2011 in AAJPS6227Q preferred against the order of the Assistant Commissioner of Income Tax, Central Circle II (3) (i/c), Chennai dated 24/12/2009 in AAJPS6227Q.

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

For Respondents: Mrs.N.V.Lakshmi
(in all TCAs)

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 Mrs.N.V.Lakshmi, 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 1 07.05.2013 made respectively in ITA.Nos...291/Mds/2013 , 292Mds/2013, 293Mds/2013, & 294/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, ''C'' Bench (for brevity, the Tribunal) for the Assessment Year 2007-2008.

3. The appeals were admitted on 05.09.2014 on the following substantial questions of law:

> “ (i) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in holding that the notice u/s 148 is due to change of opinion when the Assessing Officer has not at all formed an opinion in the original assessment u/s 143 (3)?
>
> (ii) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in holding that the assessee has disclosed fully and truly all material facts necessary for his assessment during the assessment proceedings u/s 143 (3)?
>
> (iii) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in holding that reopening of the assessment on the basis of materials produced by the assessee at the fag end of the time barring date for completion of original assessment amounting to change of opinion, when the Assessing Officer has not formed any opinion on the basis of the information furnished at the fag end of the time barring date? "

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 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 (CS-IX)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2.The Commissioner of Income Tax (Appeals)-II,
Chennai.

3.The Assistant Commissioner of Income Tax,
Central Circle II (3) (i/c),
Chennai.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No. 27822

T.C.A.Nos. 425 to 428 of 2014

GSM(CO)
GN(03/08/2021)