IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.439 of 2014

Commissioner of Income Tax,
Chennai. ... Appellant/Respondent

Vs.

Shri Kamal Bhandari
17/2, Vijaya Complex,
Veerappan Street,
Sowcarpet,
Chennai - 600 079. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 21.10.2013 in I.TA.No.645/Mds/2013, Assessment Year 2008-09, against the order passed by the Commissioner of Income Tax(Appeals) IV, Chennai-4, made in ITA.No.126/2010-11, dt.29.01.2013 and against the order passed by the Assistant Commissioner of Income Tax, Business Circle-XI, Chennai-6, made in PAN/GIR No.AEEPK6304H, dt.23-12-2010.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.M.Kaushik
for Mr.S.Sridhar



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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.Kaushik for Mr.S.Sridhar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 21.10.2013 made in I.TA.No.645/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2008-09.

3.The appeal was admitted on 26.08.2014 on the following substantial questions of law:

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of unexplained investment u/s.69A with respect to the value of alloy of 37.957 kgs amounting to Rs.6,97,590/- which was not included to the closing stock on the ground that the alloy is of no value and amount representing alloy was debited to profit and loss account?
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> 2.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that closing stock had to be valued by adopting by lesser of cost or net realizable value method, on the ground that said method was consistently followed by the assessee and, thereby, adopting lesser value of Rs.6,721/- per kg of silver, as against the actual purchase and sale price of Rs.18,639/- and Rs.17,683/- per kg of silver, when the assessee itself had admitted to adoption of net realizable value?"

4.The learned Senior Standing Counsel 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 as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in this case is 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax,
(Appeals) IV,
Chennai-34.

4.The Assistant Commissioner of Income Tax,
Business Circle XI, Chennai-6.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.17826

T.C.A.No.439 of 2014

BS(CO)
CB(17/04/2021)