IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.03.2021
CORAM
THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI
T.C.A.No.649 of 2014

Commissioner of Income Tax,
Media Circle,
Chennai – 600 034. ... Appellant/Appellant

Vs.

Shri Senthilnathan Chettiar,
No.2/13A 2nd Street,
North Gopalapuram,
Chennai – 600 086. ... Respondent/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 05.03.2014 in I.T.A.No.1268/Mds/2013, Assessment Year 2007-08, against the order passed by the Commissioner of Income Tax (Appeals) VI, Chennai-34, dated 08/01/2013 made in ITA.No.190/11-12 and against the order passed by the Assistant Commissioner of Income-Tax Media Circle-II, Chennai, dated 30.12.2009 made in PAN.NO/GIR.NO. AASPS6065R.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel
and Mrs.V.Pushpa
Standing Counsel

For Respondent : No appearance

JUDGMENT

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel and Mrs.V.Pushpa, learned Standing Counsel, for the appellant/Revenue.

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 05.03.2014 made in I.T.A.No.1268/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 09.09.2014 on the following substantial questions of law:

"1)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in allowing the interest payment as an allowable expenditure even though the assessee failed to produce any documentary evidence that the new loan was utilized for repaying the old loan and the new loans were utilized for business purpose?

2.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in allowing the assessee'c claim without adjudicating the purpose for which the new loans were obtained and the identity of the creditors were not established by the assessee?

3.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in allowing the relief to the assessee without considering the order of the Apex Court in the case of Distributors of Baroda Limited vs. Union Bank of India reported in 155 ITR 120 wherein it was held that a mistake cannot be continued to perpetuating period and the rule of res judicata does not apply to Income Tax Proceedings?”

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

//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,
Media Circle, Chennai – 600 034.

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

+1cc to Mr.M.Swaminathan, Advocate Sr.No.18578

BS(CO)
NR 17/04/2021