IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM

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

T.C.A.No.496 of 2017

Commissioner of Income Tax,
Central Circle IV,
Chennai. ... Appellant

Vs.

M/s.Best Choice,
No.176F, Trivandrum Road,
Tirunelveli 627 003. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, “B” Bench, dated 05.08.2016 in I.TA.No.1766/Mds/2014, Assessment Year 2007-08.

Appeal against the the order of the Commissioner of Income Tax , Appeals (Central)-I, 46, Mahatma Gandhi Road, Nungambakkam, Chennai-34 made in ITA No.259/10-11 dated 28/03/2014 for the Assessment Year 2007-2008.

Appeal against the order of the Deputy Commissioner of Income Tax, Central Circle-IV (1), Chennai made in PAN No.AAHFB7067M dated 30/12/2010 for the Assessment year 2007-2008.

For Appellant : Mrs.V.Pushpa
Standing Counsel

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar

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

We have heard Mrs.V.Pushpa, learned Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar, 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 05.08.2016 made in I.TA.No.1766/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The Revenue has raised the following substantial questions of law in the above appeal :

> "1.Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal was legally justified in holding that the deduction of adhoc provision from the book value of stock to arrive the closing stock is permissible?
>
> 2.Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal was correct in holding that assessee's method of valuation is acceptable when the Income Tax Appellate Tribunal itself has given a finding that such valuation is based on assessee's perception only and not based on any acceptable standard of accounting?
>
> 3.Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal is right in giving relief on the ground that Assessing Officer failed to reconcile such stock with the by-numbers given when the assessee itself failed to do so during the course of search, and thus the burden remains undischarged on the assessee who made the said assertion?"

4.The learned 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Chennai, “B” Bench

2.The Commissioner of Income Tax,
Central Circle IV,
Chennai.

3.The Commissioner of Income Tax
Appeals (Central)-I,
46, Mahatma Gandhi Road,
Numgambakkam, Chennai-34.

4.The Deputy Commissioner of Income Tax,
Central Circle IV(1), Chennai.

+1cc to Mr.M.Swaminathan, Advocate sr.20964
+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate Sr.20968

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