IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

T.C.A.No.426 of 2015

Commissioner of Income Tax
Chennai. .. Appellant

Vs.

M/s.Shriram Transport Finance Company Limited
3rd Floor, Mookambika Complex
4, Lady Desika Road
Mylapore, Chennai 600 004. .. Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal Madras 'C' Bench dated 22.01.2015 in I.T.A.No.2609/mds/2014.

For the Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For the Respondent : Mr.R.Sivaraman

JUDGMENT

This tax case appeal is directed against the impugned order dated 22.01.2015 passed by the Income Tax Appellate Tribunal (ITAT) in I.T.A.No.2609/Mds/2014.

2. By the impugned order, the Appellate Tribunal has rejected the aforesaid appeal filed by the Income Tax Department against the order dated 30.07.2014, passed by the Commissioner of Income Tax (Appeals) VI, Chennai, for the Assessment Year 2008-09.

3. The present tax case appeal was admitted on 24.07.2015 on the following substantial question of law:-

> *"Whether on the facts and circumstnaces of the case, the Income Tax Appellate Tribunal was right in holding that penalty under Section 271(1)(c) cannot be levied on the ground that the assessee had not concealed any particulars of income or furnished any inaccurate particulars of income by claiming a deduction of amount that was merely transferred to statutory reserve without incurring any expenditure or liability?"*

4. Earlier, the respondent assesee had filed return of income on 28.0.2008, admitting an income of Rs.595,36,85,180/-. Thereafter, the respondent filed a revised return of income on 31.03.2010, wherein, the respondent assessee admitted a total income of Rs.603,39,40,479/-. This culminated in the Assessment Order dated 31.12.2010 under Section 143(3) of the Income Tax Act, 1961, [for brevity, hereinafter referred to as "the Act of 1961"]

wherein, the Assessing Officer determined the income of the respondent assessee as Rs.799,62,62,360/-. Apart from several additions, penalty under Section 271(1)(c) was also imposed, pursuant to the notice issued under Section 274 of the Act of 1961.

5. Vide the impugned final order dated 22.01.2015 in I.T.A.No.2609/Mds/2014, the Appellate Tribunal followed the respondent assessee's old case for the Assessment Years 2005-06 and 2006-07 and had deleted the penalty following its decision in the respondent assessee's own case for the Assessment Year 2003-04 in I.T.A.No.1000/Mds/2010.

6. The Tribunal, in its earlier order in I.T.A.No.1000/Mds/2010 for the Assessment Year 2003-04, has placed reliance on the decision of the Hon'ble Supreme Court of India in the case of ***C.I.T.,Ahmedabad vs Reliance Petroproducts Pvt. Ltd.***[1] and a decision of this Court rendered in ***Commissioner Of Income-Tax vs M/S.Caplin Point Laboratories***[2], wherein, it was held that penalty was not leviable on the disallowances made on legal grounds.

1 *322 ITR 158 (SC)*
2 *172 TAXMAN 279*

7. The operative portion of the impugned final order dated 22.01.2015 in I.T.A.No.2609/Mds/2014 reads as under:-

> *"4. In AY 2005-06 and 2006-07, we notice that the Co-ordinate bench of Tribunal had deleted the penalty levied on identical reasons by following the decision rendered by the Tribunal in the assessee's own case in ITA No. 1000/Mds/2010 relating to the AY 2003-04. We further notice that the Tribunal has expressed the view that the assessee has not concealed any particulars of income or furnished any inaccurate particulars of income by claiming the deduction of amount transferred to Statutory reserves. The Tribunal has further noticed that the assessee had claimed the same on the basis of a legal opinion and also on bonafide and honest belief. Under these set of facts, the Tribunal has deleted the penalty levied in AY 2005-06 and 2006-07 for identical disallowance, by following the decision of Hon'ble Supreme Court in the case of Reliance Petro Products Ltd (322 (TR 158)(SC) and also the decision rendered by Hon'ble Jurisdictional Madras High Court in the case of Caplin Point Laboratories (172 Taxman 279), wherein it was held that the penalty was not leviable on the disallowances made on legal grounds. As already stated, the Ld CIT(Appeals) has followed the decision of the Hon'ble Supreme Court rendered in the case of Reliance Petro Products Ltd (supra) and also the decisions given by the co-ordinate benches of Tribunal in the assessee's own case. Further, we notice that it was not the case of the revenue that the assessee has continued to claim the deduction after the decision of Tribunal on this issue, wherein the Tribunal has confirmed the disallowance. Under these set of facts, we do not find any reason to interfere with the order of Ld CIT (Appeals) on this issue.*
>
> *5. In the result, the appeal of the revenue is dismissed."*

8. This case was argued at length, however, we note that the issue is squarely covered in favour of the respondent assessee. Therefore, there are not merits in the present appeal filed under Section 260A of the Act of 1961 by the Income Tax Department. We have also not been appraised of any *contra* decision of the High Court against the order of the Appellate Tribunal in the appellant's own case for the Assessment Year 2003-04 in ***I.T.A.No.1000/Mds/2010***.

9. That apart, the issue is also covered against the Revenue in terms of the following decisions of the Hon'ble Supreme Court of India, which are detailed below:-

(i) ***Commissioner of Income Tax, Ahmedabad vs. Reliance Petroproducts (P.) Ltd.[3].***

(ii) ***Dilip N. Shroff vs. Joint Commissioner of Income Tax, Special Range, Mumbai.[4].***

(iii) ***Principal Commissioner of Income Tax - 2 vs. Trisha Krishnan[5].***

3 *[2010] 189 Taxman 322 (SC)*
4 *[2007] 161 Taxman 218 (SC)*
5 *[2018] 95 Taxmann.com 105 (Madras)*

10. In view of the above, the substantial question of law is answered against the Revenue and in favour of the respondent assessee. This tax case appeal is liable to be dismissed and it is therefore dismissed. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
14.10.2024

Neutral Citation:Yes/No

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To:

1. The Commissioner of Income Tax
   Chennai.

2. The Income Tax Appellate Tribunal
   'C' Bench, Chennai.

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

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