IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.205 of 2024
and C.M.P.No.20614 of 2024

Hemalatha Rajan ... Appellant

Vs.

The Deputy Commissioner of Income Tax
Circle 3(2), Chennai. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai dated 12.06.2024 in ITA No.419/CHNY/2022 dated 12.06.2024 for the assessment year 2017-18.

For Appellant : Mr.S.P.Chidambaram

For Respondent : Mr.J.Narayanaswamy
Senior Standing Counsel

J U D G M E N T

(Delivered by R.SURESH KUMAR,J.)

This Tax Case Appeal has been filed against the order passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai in I.T.A.No.419 of 2022 dated 12.06.2024 in respect of assessment year 2017-18.

2. The Assessing Authority has passed scrutiny assessment order under Section 143(3) of the Income Tax Act on 30.12.2019, where, the assessing authority has passed a very cryptic order consisting of two paragraphs and for the sake of convenience, the assessment order dated 30.12.2019 in entirety is extracted hereunder:

> *" The Assessee has filed her original return of income for the assessment year 2017-18 on 29.11.2017 admitting a total income of Rs.64,70,050/-. Again, she has filed her revised return of income on 26.06.2018 admitting a total income of* ***Rs.64,70,050/-.*** *The case has been selected for scrutiny under CASS. Accordingly, a notice u/s.143(2) dated 10.08.2018 has been issued to the Assessee. Subsequently, notices u/s.142(1) dated 25.09.2019, 10.10.2019 and 18.10.2019 have been issued calling for relevant details. In response to the above notices assessee has filed her submissions.*
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> *Thereafter, this case has been transferred from Corporate Circle-4(1), Chennai to this Circle vide transfer memo dated 06.11.2019. Thereafter, this office has issued notice u/s.142(1) r.w.s. 129 dated 26.11.2019 calling for further details. In response to the notice, the assessee has furnished details called for. The assessee's submissions were perused and verified with the information available on record. Based on the above, the assessment is completed by accepting returned income.*

Accordingly, assessment is completed as under:

Returned Income : Rs.64,70,050/-
Assessed Income : Rs.64,70,050/-

Demand notice u/s.156 of the IT Act, 1961 and computation sheet are enclosed herewith."

3. Not satisfied with the said order passed by the assessing authority, the revisional authority ie., the Commissioner of Income Tax, by invoking the revisional power under Section 263 of the Act, had issued notice to the assessee and after receiving a reply from the assessee, has passed an order under Section 263 of the Act on 29.03.2022, where, he had reason to find that there had been cash deposits in the accounts of the assessee, which had not been taken into account by the assessing authority. That apart, there is an increase of Rs.14.84 crores in the share premium and the source had not been verified and recorded in the assessment order for the huge increase of share premium and also the cash deposits made by the assessee during the demonetization period to the extent of Rs.6,51,42,171/- also had been noticed. However, the source has also not been verified and recorded in the assessment order.

4. Moreover, the very assessment order passed by the assessing authority under Section 143(3) itself has been a cryptic order and has been extracted

herein above. Therefore, the revisional authority having invoked Section 263(3) of the Act passed an under under revision dated 29.03.2022, whereby the assessment order had been set aside and had been remitted to the assessing officer to make a detailed enquiry and pass orders after affording an opportunity of hearing to the assessee.

5. Aggrieved over the said order, the assessee approached the Income Tax Appellate Tribunal in the said I.T.A.No.419 of 2022, which was considered by the Tribunal through the impugned order dated 12.06.2024 and was ultimately rejected. Aggrieved over the said order passed by the Income Tax Appellate Tribunal dated 12.06.2024, this Tax Case Appeal has been preferred by the Assessee.

6. We have heard Mr.S.P.Chidambaram, learned counsel appearing for the appellant assessee and Mr.J.Narayanaswamy, learned Senior Standing Counsel for the respondent revenue.

7. Though an attempt has been made by the learned counsel that a similar issue in T.C.A.No.60 of 2023 had been admitted, where, one of the questions that was raised is that, as per the dictum of **Malabar Industrial Co., Limited -vs- Commissioner of Income Tax [2000] 243 ITR 83** whether

the Principal Commissioner of Income Tax has any jurisdiction to revise the order of the assessing officer, where the assessment has been already made scrutinized by the assessing officer during the original assessment.

8. When that being the position, the learned counsel canvasses the point that, here also similar situation prevails, where the assessing officer, under the scrutiny assessment, has already scrutinized the issues and when that being so, whether the revisional authority has got a jurisdiction under Section 263 of the Act to revise the order was the question that has been raised before the Tribunal and therefore on the same question of law, this appeal also has to be entertained and to be decided, he contended.

9. We are not impressed with the submission made by the learned counsel for the appellant for the reason that, insofar as the scrutiny assessment that has been made by the assessing officer is concerned, as we have seen the order passed by the assessing officer under Section 143(3) of the Act on 30.12.2019, where nothing has been stated as to what are all the inputs and documents which have been sought for under the scrutiny assessment order from the assessee and what are all the documents which have been filed by the assessee, whether those documents have been perused and verified and only

thereafter the assessing officer has come to the conclusion to confirm the income as admitted under the return. These are the issues which ought to have been gone into by the assessing officer. But, those issues are conspicuously absent in the assessment order dated 30.12.2019.

10. Moreover, the issues that have been found out by the revisional authority with regard to the increase of share premium to the extent of Rs.14.84 Crores and also the non-disclosing of the source or non-verification of the source if it is disclosed by the assessee with regard to the cash deposits during demonetization period to the extent of Rs.6,51,42,171/- and also so much of cash deposits in the bank account of the assessee are all the issues which had been found by the revisional authority. When those issues have not been verified or scrutinized properly by the assessing officer, there would be prejudice to the Revenue. Hence, the revisional authority has invoked the revisional power under Section 263(3), which of course, in the considered opinion of this Court, rightly.

11. Therefore, absolutely there is no reason to interfere with the decision taken by the revisional authority in passing the assessment order under Section 263 of the Act on 29.03.2022 as well as the order passed by the Tribunal which

is impugned herein.

12. The question of law that has been raised in the said TCA No.60 of 2023 might have been based on the facts of the said case. However, in the case in hand, the very scrutiny assessment order under Section 143(3) itself is a very cryptic order and it shows the complete non-application of mind on the part of the assessing officer. Therefore, even the decision reported in **Malabar Industrial Co., Limited -vs- Commissioner of Income Tax [2000] 243 ITR 83** heavily relied upon by the learned counsel for the appellant assessee could not be made applicable to the facts of the case. Therefore, we are not inclined to entertain this appeal. Hence, the same is dismissed and the questions of law raised herein would be tested at a later point of time in an appropriate case. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) **(C.S.N.,J.)**
30.09.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Deputy Commissioner of Income Tax
Circle 3(2), Chennai.

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

KST

T.C.A.No.205 of 2024

30.09.2024