IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM

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

T.C.A.No.248 of 2024
and
C.M.P.No.23110 of 2024

The Commissioner of Income Tax,
Central Circle-1,
Salem. ... Appellant

-Vs-

Dr.K.Neduchezhian ... Respondent

PRAYER : Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 25.05.2022 in I.T(SS)A No.2/Chny/2018.

For Appellant : Mrs.R.Hemalatha
Senior Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

1. *Whether on the facts and in the circumstance of the case the ITAT was right in deleting the additions made on investments made on account sand quarrying which is in benami nature of AOP's and its member who exist only on paper and investment in their names belong to the assessee as confessed by the assessee u/s.132(4) on 12.12.2002?*
2. *Whether on the facts and in the circumstance of the case the ITAT was right in not considering the evidentiary value and the veracity of the affidavits declaring the undisclosed income voluntarily furnished on 18.12.2002 by the assessee as well as by the third parties which themselves are supported in turn by the statements deposed by them on 12.12.2002 under Section 132(4) of the Income Tax Act?*
3. *Whether on the facts and in the circumstance of the case the ITAT was right in shifting the onus on the department without deliberating the failure on the part of the assessee by not furnishing any material evidences in support of his retraction against the primary evidences being his sworn statement deposed u/s.132(4) of the Income Tax Act as well as the affidavit voluntarily filed by them?*

2. It is brought to our notice by the learned Senior Standing Counsel for

the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

3. Recording the aforesaid submission made by the learned Senior Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) **(C.S.N., J.)**
30.10.2024
(2/2)

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji
To

The Income Tax Appellate Tribunal 'D' Bench,
Chennai.

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

vji

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