IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

T.C.A. No.540 of 2013

The Commissioner of Income-tax,
Coimbatore. .. Appellant

Vs.

M/s.Sakthi Sugars Limited,
180 Dr.Nanjappa Road,
Coimbatore - 641 018. .. 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 11.05.2012 in I.T.A.No.1806/Mds/2010.

For Appellant	:	Mr.V,Mahalingam Senior Standing Counsel
For Respondent	:	Mr.R.Vijayaraghavan for M/s.Subbaraya Aiyar Padmanabhan

JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

The substantial question admitted for consideration of this appeal on 28.10.2013 is as follows:

"*Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in confirming the Commissioner of Income Tax Appeals order holding that there was no failure on the part of the assessee to disclose fully and truly all material facts for the assessment to assume jurisdiction to re-open the assessment under Section 147 of the Act?*"

2. We have heard Mr.V.Mahalingam, learned Senior Standing counsel for the appellant/revenue and Mr.R.Vijayaraghavan, learned counsel for the assessee/respondent.

3. The appeal relates to Assessment Year (AY) 2002 – 2003. An assessment was originally completed on 31.10.2002 accepting the returns filed by the assessee under the provisions of the Income Tax Act, 1961 (in short 'Act'). After scrutiny under Section 143(3) of the Act, notice under Section 148 was issued by the assessing authority on 14.03.2009 at the fag end of 6 years, on the premise that the reduction in amount of Rs.13,59,93,023/- (approx.) in the computation of total income was incorrect. Despite objections, the re-assessment came to be completed on 04.12.2009.

4. In appeal, the Commissioner of Income Tax (Appeals) allowed the appeal on the ground that assessment was barred by limitation following the ratio of the decision of the Hon'ble Supreme Court in *CIT V. Foramer France* (264 ITR 566 SC). The revenue challenged the matter in second appeal before the Income Tax Appellate Tribunal

('Tribunal'), where the facts were noted in detail. The Tribunal also considered the reasons on the basis of which the re-assessment proceedings had been initiated, and have, at paragraph 8 of its order, returned the finding that the re-assessment was solely based on a change of opinion. Citing the decisions of the Madras High Court in *CIT V. Elgi Ultra Industries Limited* (296 ITR 73 [Mad]) and the Allahabad High Court in *Foramer France V. CIT* (247 ITR 436) as well as other decisions, the very basis of the assessment was held to have been vitiated, and the appeal was dismissed.

5. Before us, no material has been brought on record by the learned revenue counsel to dislodge any of the findings in the order of the Tribunal.

6. The proviso under Section 147 of the Act, requires a re-assessment to be initiated within a period of four years from end of the relevant assessment year, and extends the period to six years, only if there were sufficient materials with the revenue to establish failure on part of the assessee in making a full and true disclosure at the first instance. In this case, there are, admittedly, no such materials.

DR. ANITA SUMANTH,J.
and
MUMMINENI SUDHEER KUMAR,J.

7. Hence, this appeal is dismissed and the question of law answered in favour of the assessee. No costs.

[A.S.M, J.] [M.S.K, J.]
08.12.2025

Index:Yes
Neutral Citation:Yes
Speaking order
mpl

To

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

T.C.A. No.540 of 2013