Court No. - 3

Case :- INCOME TAX APPEAL No. - 10 of 2022

Appellant :- The Pr. Commissioner Of Income Tax And Another
Respondent :- M/S Mehdipur Balaji Impex Pvt. Ltd.
Counsel for Appellant :- Gaurav Mahajan,Ashish Bansal
Counsel for Respondent :- Ashish Bansal

Hon'ble Surya Prakash Kesarwani,J.
Hon'ble Jayant Banerji,J.

Heard Sri Gaurav Mahajan, learned counsel for the Income Tax Department/ appellants and Sri Ashish Bansal, learned counsel for the respondent - assessee.

From perusal of the assessment order of the respondent - assessee, it appears that certain unsecured loan shown by assessee from certain persons was disbelieved by the Assessing Officer and invoking the provisions of Section 68 and Section 69 of the Income Tax Act, 1961 such unsecured loan was added in the income of the assessee. Thus, the controversy involved in the matter of the respondent - assessee was with regard to application of Section 68 and Section 69 of the Income Tax Act, 1961 in respect of the alleged unsecured loan. Neither it was long-term capital gain nor short-term capital loss nor such was the case of the Income Tax Department. Therefore, submission of the learned counsel for the appellant that this appeal is entertain-able even if quantum involved is below the monetary limit fixed by the Board for filing appeal, vide Circular No.23/2019 dated 06.09.2019 and office memorandum dated 16.09.2019. By the aforesaid Circular No.23/2019 read with office memorandum dated 19.09.2019, an exception has been carved out that if the matter involves claim for bogus long-term capital gain / short-term capital loss through penny stocks, then appeal may be filed by the Department before the High Court even if the quantum involved in the appeal is below the monetary limit fixed by the Board for filing appeal by the Income Tax Department.

We find that controversy of long-term capital gain/ short-term capital loss through penny stocks is not involved in the present appeal. Admittedly, the quantum involved in the appeal, is below the monetary limit fixed by the Board. Therefore, the appeal is not entertain-able. Consequently, the appeal is ***dismissed.***

Order Date :- 16.2.2022
T.S.

Digitally signed by TRIBHUWAN SINGH
Date: 2022.02.21 10:20:45 IST
Reason:
Location: High Court of Judicature at Allahabad