

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1793 OF 2004

M.G. Pictures (Madras) Limited.

...Appellant

versus

Assistant Commissioner of Income Tax,
Chennai

...Respondent

O R D E R

The appellant/assessee herein is engaged in production and distribution of motion pictures mainly in Tamil language. There was a search under Section 132 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') at the business premises of the assessee during which certain book of accounts were seized. Consequent to the search, proposal was made for assessment for the block period of ten years 1.4.1986 to 31.3.1996 and thereafter up to 13.9.1996.

The Assessing Officer disallowed the expenditures where the payments were made in cash in excess of Rs.10,000/- relying on Section 40A(3) of the Act as it stood prior to 1.4.1996.

The appellant filed appeal before the Income Tax Appellate Tribunal, Madras Bench (for short 'the Tribunal').

The Tribunal vide order dated 28.6.2000 partly allowed the appeal and remitted the matter to the Assessing Officer for considering the claim whether the income/loss from the file Thirumurthy was to be computed for the assessment year 1996-97

in accordance with Rule 9A of the Income Tax Rules. It was also directed that in making the computation the Assessing Officer will consider the expenditure and make the disallowance under the provisions of Section 40A(3) of the Act, as was applicable for the assessment year in question.

Feeling aggrieved by the order of the Appellate Tribunal, the appellant filed appeal before the High Court.

The High Court did not accept the contentions of the appellant which were based on the amended Section 158B(b) in Chapter XIVB of Finance Act, 2002 and dismissed the appeal.

Questioning the validity of the aforesaid judgment of the High Court, the present appeal has been preferred with the leave of the Court.

As is clear from the facts noted above, because of search carried on at the premises of the appellant-assessee, a proposal was made for completion of assessment for the block period of ten years from 1.4.1986 to 31.3.1996. In the year 1996, the provisions of Section 40A(3) of the Act did not allow any expenditure if it was more than Rs.20,000/- and paid in cash. The only exception that was carved out in such cases where the assessee could satisfactorily demonstrate to the Assessing Officer that it was not possible to make payment in cheque. Even in those cases, the expenditure was allowable up to Rs.10,000/-, and all cash payments made in excess of Rs.10,000/- were to be disallowed as the expenditure. Provisions of Section 40A(3) were amended with effect from 1.4.1996. With this

amendment, in cases where the cash payment is made in excess of Rs.20,000/-, disallowance is limited to 20% of the expenditure.

Since the date of the amendment falls within the aforesaid block period, the assessee wants the benefit of this amendment for the entire block period of ten years, i.e., 1.4.1986 to 31.3.1996. Such a plea is unacceptable on the face of it. It is clear that amendment is substantive in nature, which is so mentioned in the explanatory notes of amendments as well.

Once we find that the amendment is substantive in nature, it cannot be applied retrospectively. The only ground on which the assessee wants benefit of this amendment from 1.4.1986 is that the assessment was of the block period of ten years. However, on our pertinent query, learned counsel for the appellant was fair in conceding that there is no judgment or any principle which would help the appellant in supporting the aforesaid contention. We are, thus, of the opinion that the order of the High Court is perfectly justified.

There is no merit in this appeal, and the same is accordingly dismissed.

.....J.
[A.K. SIKRI]

NEW DELHI;
MARCH 25, 2015.

.....J.
[ROHINTON FALI NARIMAN]

ITEM NO.113

COURT NO.15

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 1793/2004

M.G. PICTURES (MADRAS) LTD.

Appellant(s)

VERSUS

ASSTT. COMMNR. OF INCOME TAX, CHENNAI

Respondent(s)

Date : 25/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. V.S. Jayakumar, Adv.
 Mr. Ashmeet Singh, Adv.
 for Mr. Subramonium Prasad,AOR

For Respondent(s) Mr. Arijit Prasad, Adv.
 Mr. D.L. Chidananda, Adv.
 Ms. Anil Katiyar, Adv.
 for Mr. B. V. Balaram Das,AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Parveen Kr. Chawla)

(Suman Jain)

Court Master

Court Master

[signed order is placed on the file]