IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.03.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE R.KARUPPIAH

T.C.A. NO. 372 OF 2014

Commissioner of Income Tax
Madurai. .. Appellant

- Vs -

Mr. M.Palaniappan .. Respondent

Appeal filed under Section 260A of the Income Tax Act against the order dated 26.11.13 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, made in ITA No.1079/Mds/2013.

Against the order of the Commissioner of Income Tax(Appeals) Madurai dated 22.2.2013 in ITA.No.143/11-12.

Against the Order of the Income Tax Officer Ward 1(2) Karaikudi dated 27.12.2011 in PAN/GIR No.AAIPP 4570E.

For Appellant : Mr. M.Swaminathan

For Respondents : Mr. S.Sridhar

JUDGMENT

(DELIVERED BY R.SUDHAKAR, J.)

The core issue in this appeal, filed by the Department, is whether the sale of the land should be charged to capital gains tax at the hands of the individual, who is the respondent herein, or in the status of HUF.

2. The contention of the Department in the appeal was that the capital gains should be invoked in respect of the individual. However, the learned counsel appearing for the Department, at the time of hearing of this appeal, pointed out that an assessment order dated 12.2.15 has been passed by the Assessing Officer under Section 143 (3) proceedings, wherein capital against has been assessed in the hands of the HUF. Accordingly, it is submitted by the learned standing counsel for the Department that the further course of action has to be looked into by the Department in the light of the above

assessment order and, therefore, it is submitted that the appeal, for the present, has infructuous.

3. A copy of the assessment order dated 12.2.15 has been placed before this Court. A perusal of the same clearly shows that the amount in respect of sale of lands has been subject to capital gains tax in the hands of HUF. Therefore, it is clear that the issue raised in this appeal has become infructuous.

4. Accordingly, in view of the above stated position, this appeal is dismissed as having become infructuous. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Commissioner of Income Tax
Officer No.2 V.P.Rathansamy Nadar Road, Bibiculam
Madurai 625 002.

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

3.The Income Tax Officer Ward 1(2)
Karaikudi

1 cc to Mr.S.Sridhar,Advocate, SR.No.14964
1 cc to Mr. M.Swaminathan,Advocate, SR.No.14944

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pmk.26.3.2015