IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15/6/2016

C O R A M

The Honourable **Mr.Justice S.Manikumar**
and
The Honourable **Mr.Justice D.Krishnakumar**

Tax Case Appeal No.2156 of 2008

The Commissioner of Income Tax
Chennai. ... Appellant

Vs

Shri BMK Viswanath Sah
81 Sheikpet Nadu Street
Kanchipuram. ... Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai dated 25/4/2008 in ITA No.2321/Mds/2005.

For appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
for Income Tax.

For respondent : Mr.R.Venkatanarayanan

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J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, 'C' Bench, Madras, dated 25/4/2008.

2. The substantial questions of law raised in the instant appeal are:-

> "1. Whether in the facts and circumstances of the case, the protective assessment made in the hand of the assessee is valid in law, when the assessee himself has filed his return of income including his share of short term capital gains therein?
>
> 2. Whether in the facts and circumstances of the case, protective assessment has been made in the hands of the assessee it is valid in law when the same has been made in view of the fact that

appeal of the firm M/s. Sapthagiri Finance & Investments, Kancheepuram, was pending and the demand was also kept in abeyance pending outcome of the second appeal of the firm?

3. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the short term capital gains that arose on transfer of the immovable property cannot be assessed in the hands of the partner?”

3. Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for Income Tax submitted that the tax implication in the instant appeal is less than the ceiling limit fixed by the Circular bearing No.21 of 2015, dated 10/12/2015. He further submitted that as per the Circular, Tax Case Appeals have been instructed to be withdrawn, subject to the matters covered under the circular.

4. Placing on record the above submissions, while dismissing the Tax Case Appeal No.2156 of 2008, as withdrawn, substantial questions of law raised are left open. No costs.

(S.M.K.,J) (D.K.K.,J)
15th June 2016.

mvs.

Index: yes/No

website: Yes/No.

S.MANIKUMAR,J

a n d

D.KRISHNAKUMAR,J

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