IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13/6/2016

C O R A M

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

Tax Case Appeal No.394 of 2016

The Commissioner of Income Tax
Chennai. ...Appellant /Appellant

Vs

Smt.M.A.Jananilakshmi
10/5 First Link Street
CIT Colony
Mylapore
Chennai 600 004. ...Respondent/Respondent

Prayer: Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai dated 24/7/2015 in ITA No.1317/Mds/2013 against the order passed by the Commissioner of Income Tax (Appeal)-VI, Chennai, dated 10/1/13 in ITA No.278/11-12 and against the order passed by the Income Tax Officer Business ward I(2), Chennai-600 034 in PA/GI.No.AEDPJ1012L dated 19/12/2011 for the Assessment Year 2007-2008.

For appellant : Mr.Arun Kurian Joseph
Senior Standing Counsel
for Income Tax.

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, 'D' Bench, Madras, dated 24/7/2015.

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

> "1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in rejecting the revenue's appeal by holding that the

assessee was entitled to the claim of deduction made under Section 54 B of the Income Tax Act especially when the assessee has not deposited the capital gains in capital gains deposit scheme before the due date for filing of the return?

2. Is not the finding of the Tribunal is wrong and perverse while allowing the entire sale proceeds under Section 54 B especially when the assessee has deposited only Rs.25 lakhs into the capital gains accounts scheme before due date for filing of the return?

3. Whether on the facts and circumstances of the case, the Tribunal was right in allowing deduction in respect of the entire sale proceeds of Rs.68.65 lakhs when the assessee has only invested Rs.55 lakhs under Section 54 B of the Income Tax Act?

4. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in ignoring the fact that Maraimalai Nagar Municipality constitutes Urban conglomeration/area within the meaning of Sec.2 (14) (iii) (a) or (b) being within three Kms of the Municipality and therefore, would not constitute an agricultural lands and no exemption is permissible?"

3. Mr.Arun Kurian Joseph, learned Senior Standing Counsel for Income Tax fairly submitted that the monetary limit, in the instant appeal is less than Rs.20 lakhs. He also submitted that the instant appeal was filed on 15th December 2015, on the basis of the instructions of the Commissioner of Income Tax. Tax Case Appeal falls within the ambit of Circular No.21/2015 [F.No.279/Misc.142/2007-ITJ (PT.)], dated 10/12/2015

4. Based on the above said Board Circular, instructions have been given that the appeal should be filed only above the specified monetary limit, as specified in paragraph 3 of the Circular. Added further, Mr.Arun Kurian Joseph, learned counsel for the appellant submitted that the impugned order does not fall under any one of the clauses mentioned in paragraph No.8 of the Circular.

5. In the light of the above circular and placing on record the submission of the learned counsel for the appellant, while dismissing the T.C.A.No.394 of 2016, as withdrawn, substantial questions of law raised are left open. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Income Tax,
Chennai.

2.The Income Tax Appellate Tribunal,
Madras 'D' Bench, Chennai.

3.The Commissioner of Income Tax,
(Appeal) VI, Chennai.

4.The Income Tax Officer,
Business Ward I(2),
Chennai-34.

+1cc to Mr.T.RaviKumar, Advocate Sr.31653

Tax Case Appeal No.394 of 2016

ca[co]
srg 29/06/2016