IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Tax Case (Appeal) No.1213 of 2010

The Commissioner of Income Tax,
Circle XIV,
Chennai-34. .. Appellant/Respondent

Vs.

Sanchita Bhattachariya .. Respondent/

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act against the order dated 24.06.2010 made in I.T.A.No.1054/Mds/2008 on the file of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, against the order of the Commissioner of Income Tax (Appeals)-XII, Chennai-34, dated 28.02.2008 and made in ITA NO.24/06-07 for the Assessment year 2003-04 and against the order of the Assistant Commissioner of Income Tax Circle-XIV, Chennai-6, dated Nil and made in PAN/GIR NO.613282-S for the Assessment year 2003-04.

For appellant: Mr.T.R.Senthilkumar,
Standing Counsel for
Income Tax Department.

For respondent: Mr.S.Sridhar

JUDGMENT

(Judgment of the Court was delivered by Nooty.Ramamohana Rao,J)

This Tax Case Appeal being an old matter, has been taken up for final disposal by us today. This appeal is preferred by the Commissioner of Income Tax, Chennai, aggrieved by the order, dated 24.06.2010, passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.1054/Mds/2008.

2. Learned counsel for the respondent-assessee, in the form of a memorandum, has raised a preliminary objection with regard to the sustainability of the Department's Tax Case Appeal, based upon the instructions contained in Circular No.21 of 2015, dated 10.12.2015 issued by the Central Board of Direct Taxes, New Delhi.

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

3. The said Circular No.21 of 2015 deals with the subject matter of revision of mandatory limits for filing of the appeals by the Department before the Income Tax Appellate Tribunal, High Courts and Special Leave Petitions before the Supreme Court. Various measures are devised from time to time for reducing the unproductive litigations. In paragraphs 3 and 10 of the said Circular, the following instructions have been issued:

> "3. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:-

Sl. No.	Appeals in Income-tax matters	Monetary Limit (in Rs.)
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

> It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case."

> "10. The instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

4. From the above instructions contained in the Circular, learned counsel for the respondent/assessee submitted that pending appeals before the High Court, below the specified tax limits as stated in paragraph 3 of the Circular, are liable to be withdrawn/not pressed. The limits prescribed in paragraph 3 insofar as the appeals before the High Court are concerned, they are set out for Rs.20 lakhs. According to the learned counsel for the respondent/assessee, the total tax effect in the instant case is to the value of Rs.8,71,360/- and hence, it being less than the limit of tax effect specified in paragraph 3 of the said Circular at Rs.20 lakhs, this appeal deserves to be dismissed either as withdrawn or not pressed.

5. At this stage, learned Standing Counsel appearing for the appellant/Revenue (Department) urged that having noticed the instructions contained in the said Circular, he has already taken up the matter with the Department, but however, he has not

WEB COPY

received any instructions in writing from the Department and hence, he cannot withdraw this appeal.

6. It is appropriate to notice that the Central Board of Direct Taxes has issued the instructions contained in the said Circular in exercise of its power available to it under Section 268-A(i) of the Income Tax Act,1961 and hence, the Circular has statutorily enforceable character. In that view of the matter, we treat this appeal as dismissed as withdrawn, in view of the instructions received by the learned Standing Counsel to that effect, and dismiss it as such. However, it goes without saying that the questions of law raised in this appeal for consideration of this Court are kept open to be decided on merits in an appropriate case. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dixit

To

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

2. The Commissioner of Income Tax (Appeals(-XII),
Chennai-34.

3. The Assistant Commissioner of Income Tax Circle-XIV,
Chennai-34.

+ 2 ccs to Mr.T.R. Senthilkumar, Standing Counsel for Income Tax High Court, Madras SR.27572, 27731

T.C.A.No.1213 OF 2010

JSV(CO)
Eu 07.06.16

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/