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) Nos.696 & 697 of 2010

The Commissioner of Income Tax,
Chennai. ..Appellant in both Appeals/Respondent

Vs.

Sri Ashok Kumar Sethi ..Respondent in both Appeals/Appellant

Tax Case Appeals filed under Section 260-A of the Income Tax Act against the order dated 29.05.2006 made in I.T.A.(SS) No.68/Mds/2003 and I.T.A.(SS) No.95/Mds/2003, against the Order of the Commissioner of Income-Tax (Appeals-II) Coimbatore Dated 26.02.2003 in ITA.NO.189-C/2002-2003.

and against the Order of the Deputy Commissioner of Income-Tax Central Circle III (4), Chennai-34, Dated 16/07/2002 and in P.A.NO./G.I.No.AA11PSO731M on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai.

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)

These Tax Case Appeals being old matters, have been taken up for final disposal by us today. These appeals are preferred by the Commissioner of Income Tax, Chennai, aggrieved by the order, dated 29.05.2006, passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.(SS) No.68/Mds/2003 and I.T.A.(SS) No.95/Mds/2003.

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.

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.12,51,950/- and hence, it being less than the limit of tax effect specified in paragraph 3 of the said Circular at Rs.20 lakhs, these appeals deserve 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 received any instructions in writing from the Department and hence, he cannot withdraw these appeals.

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 these appeals as dismissed as withdrawn, in view of the instructions received by the learned Standing Counsel to that effect, and dismiss them as such. However, it goes without saying that the questions of law raised in these appeals for consideration of this Court are kept open to be decided on merits in an appropriate case. No costs.

dixit

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

1. THE COMMISSIONER OF INCOME-TAX APPEALS-II, COIMBATORE.

2. THE DEPUTY COMMISSIONER OF INCOME-TAX CENTRAL CIRCLE-III, (4), CHENNAI-34.

3.THE ASST. REGISTRAR, INCOME-TAX APPELLATE TRIBUNAL, 'Á' BENCH, CHENNAI, IIIrd FLOOR, RAJAJI BHAVAN, BESANT NAGR, CHENNI-90.

+ 1 CC TO Mr.T.R.SENTHIL KUMAR, ADVOCATE SR 27732.

+ 1 CC TO Mr.S.SRIDHAR, ADVOCATE SR 27570.

KR/6/6/16

T.C.A.Nos.696 & 697 OF 2010