IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.02.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

TAX CASE APPEAL No.1386 of 2007

The Commissioner of Income Tax,
Chennai .. Appellant

Versus

Shri P.Santhanakrishnan
F-8, Kalpatharu,
51, Vellalar Street,
Adambakkam,
Chennai-88. .. Respondent

Tax Case Appeal file under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 23.5.2007 in ITA.No.2002/Mds/2006.

For Appellant .. Mr.M. Swaminathan

For Respondent .. Mr. J. Narayanasamy

JUDGMENT

The Tax Case Appeal filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, "B" Bench, Chennai dated 23.5.2007 in ITA.No.2002/Mds/2006 has been admitted on 31.10.2007 for consideration of the following substantial questions of law:

HULUVADI G. RAMESH, J.
&
DR.ANITA SUMANTH, J.

msr

"1. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee is eligible for the benefit of Sec.10(10C), without even going into the details of the Early Retirement Option Scheme to see if it fulfils the criteria laid down for Voluntary Retirement Scheme?

2. Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled to deduction u/s.10(10C) when the scheme under which the amount was paid does not fulfil the criteria prescribed u/r2BA of the Income Tax rules?"

2. Circular instruction issued by the Central Board of Direct Taxes No.21/2015, dated 10.12.2015 stipulates that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.20 lakhs. In the instant case, the tax effect is less than the monetary limit imposed and the appeal is hence, dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

(H.G.R.,J) (A.S.M.,J)
13.02.2017

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Index:Yes/No