IN THE HIGH COURT OF JUDICATURE AT MADRAS

25.01.2017

Coram:

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

T.C.A. No.571 of 2008

Commissioner of Income Tax,
Chennai. .. Appellant

Versus

M.V.Seetharam Sah .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the Order of the Income Tax Appellate Tribunal Madras 'C' Bench, dated 27.09.2007 in ITA. No.2318/Mds/2005.

For Appellant .. Mr.T.R.Senthil Kumar

For Respondent .. Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar

JUDGMENT

The Tax Case Appeal filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 27.09.2007 in ITA. No.2318/Mds/2005, has been admitted on 03.07.2008 for consideration of the following substantial questions of law:

HULUVADI G.RAMESH, J
AND
Dr.ANITA SUMANTH,J

vga

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

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 question of law for determination in an appropriate case. No costs.

(H.G.R.,J) (A.S.M.,J)
25.01.2017

vga

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