IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) Nos.1094 and 1095 of 2009

Income Tax Officer,
Ward II(2), Madurai. ... Appellant in both the Appeals

-vs-

Sri Ambika Jewellers,
106, South Aavani Moola Street,
Madurai-625 001. ... Respondent in both the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'B' Bench, Chennai, dated 18.08.2000 in I.T.A.Nos.1683 and 1684/Mds/92 for the assessment years 1985-86 and 1986-87.

Against the order of the Commissioner of Income Tax Appeal, Madurai dated 24.04.1992 in I.T.A.Nos.86/90-91 AY 85-86, 87/90-91 AY 86-87, 85/90-91 AY 87-88 in P.A. No. 49-003/FV 7953.

Against the order of the Deputy Commissioner of Income Tax Special Range I, Madurai dated 28.03.1989 in P.A.N. 49-003-FT-7993/1986-87.

For Appellant : Mr.M.Swaminathan,
(in both the Appeals) Senior Standing Counsel
: and Ms.V.Pushpa,
Junior Standing Counsel

For Respondent : No Appearance
(in both the Appeals)

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COMMON JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

These appeals, by the appellant/Revenue, are directed against the common order dated 18.08.2000, passed by the Income Tax Appellate Tribunal Chennai 'B' Bench, in I.T.A.Nos.1683 and 1684/Mds/92 for the assessment years 1985-86 and 1986-87.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeals have been admitted, on 03.11.2009, on the following substantial question of law:-

> "Whether on the facts and circumstances of the case, the Tribunal was right in law in cancelling the penalty under Section 271(1)(c) especially when the assessee had agreed for additional arising out of concealment of income?"

4.We have perused the orders of assessment as well as the order passed by the Commissioner of Income Tax (Appeals) and we find that the tax effect in these appeals is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue these appeals in view of the low tax effect. Hence, the appeals are dismissed and the substantial question of law, framed for consideration, is left open. The Revenue is at liberty to seek for restoration of appeals if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Income Tax Appellate Tribunal Chennai 'B' Bench.
Rajaji Bhavan, Besant Nagar, Chennai.

2. The Commissioner of Income Tax
Appeals I, Madurai.

3. The Deputy Commissioner of Income Tax
Special Range I, Madurai.

T.C.(A) Nos.1094 and 1095 of 2009

MG(CO)
SP(07/12/2018)