IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HON'BLE DR. JUSTICE VINEET KOTHARI
and
THE HON'BLE DR. JUSTICE ANITA SUMANTH

T.C.(A).No.1101 of 2009

Commissioner of Income Tax,
Madurai. .. Appellant

Vs

Shri.K.M.Surendran,
28, Melakkal Main Road,
Kochadai, Madurai - 625 016.
GIR.No.S-7006 .. Respondent

Prayer : Tax Case (Appeal) is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, dated 12.06.2009 passed in ITA No.102/Mds/2007 for the block Assessment years 1990-91 to 1999-00 & 2000-01.(Part)

against the Order of the commissioner of Income Tax (Appeals) II, Madurai, order dated 19/03/2007 and made in ITA.No. 221/2005-06 and against the Order of the Assistant Commissioner of Income Tax, Central Circle - II, Madurai, order dated 27/02/2003 and made in PAN/G.I.R.No. S-7006 for the Assessment Year 1990-91 to 2000-01(P).

For Appellant : Mr.T.R.Senthil Kumar
Sr.Standing Counsel
For Respondent : No appearance

JUDGMENT
(Judgment of the Court was delivered by
DR.VINEET KOTHARI, J.)

Heard the learned counsel for the appellant.

2. The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in ITA No.102/Mds/2007 for the block Assessment years 1990-91 to 1999-00 & 2000-01.

3. The above appeal has 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 holding that proceedings under section 158BD are time barred, when the assessment was completed within two years from the end of the month when the notice under the correct section was issued?''

4. It may not be necessary for us to answer the above substantial question of law, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. A Division Bench of this Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

> "4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
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> 5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open."

5. In the light of the above, the above appeal is dismissed. No costs. The substantial question of law is left open for consideration.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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TO

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

2.The Commissioner of Income Tax (Appeals) - II,
Madurai.

3.The Assistant Commissioner of Income Tax,
Central Circle II, Madurai.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No. 80761

T.C.(A).No.1101 of 2009

RV(CO)
GN(09/01/2019)