IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

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

Tax Case Appeal No.1159 of 2009

Commissioner of Income Tax,
Tiruchirapalli. Appellant/Repondent

Vs.

Shri K.Premanathan Respondent/Appellant

Prayer : Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 25.02.2009, made in ITA No.182/mds/2007, against the order of the Commissioner of Income Tax (Appeals), Tiruchirappalli, dated 25.10.2006, made in ITA No.385/CIT(A)/TRY/2005-2006, for the assessment year 2001-2002 and against the order of the Income Tax Officer, Ward IV(1), Tiruchirappalli, dated 31.03.2004, made in PA No.TGIR No.AAGPD9096D for the assessment year 2001-2002.

For Appellant : Mrs.S.Premalatha
for Mr.M.Swaminathan,
Senior Standing Counsel.

For respondent : Mr.S.Sridhar

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J.)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 25.02.2009, in ITA No.182/mds/2007, by raising the following substantial questions of law :

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in remanding the case back to the assessment officer to find out whether cash loans were availed from family members, when it is an admitted fact by the revenue, and directing the officer to delete the penalty under Section 271D on the ground of reasonable cause under Section 273B ?

(ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that in the absence of urgency/business expediency, acceptance of loan in cash in excess of Rs.20,000/- from the relatives would ipso facto constitute bonafide belief that it would not attract provisions of Section 269SS ?

(iii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that in the absence of urgency/business expediency, acceptance of loan in cash in excess of Rs.20,000/- from the relatives would constitute 'reasonable cause' under Section 273B ?

2. When the matter is taken up for hearing, the learned Standing Counsel for the Department brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018, dated 11.7.2018, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50.00 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and, therefore, the appeal filed by the Revenue is dismissed, as not pressed, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Member/Accountant Member
Incoem Tax Appellate Tribunal, Bech 'C'
Chennai.

2. The Commssioenr of Income Tax (Appeals),
   Tiruchirappalli

3. The Joint Commissioner of Income Tax (i/c)
   Range -IV, Tiruchirappalli.

4. The Income Tax Officer,
   Ward IV (1) Tiruchirappalli.

+1cc to Mr.S.Premalatha, Advocate SR.No.84934

TCA No.1159 OF 2009

MR(CO)
GMY(08/01/2019)