IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM

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

Tax Case Appeal No.1208 of 2009

The Commissioner of Income Tax
Coimbatore. Appellant/Appellant

Vs.

M/s.Bafna Associates,
161, Ponnurangam Road (East),
R.S.Puram, Coimbatore 641 002. Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 14.7.2005 made in M.P.No.308/Mds/2004 in ITA No.1691/Mds/2003 against the order of the commissioner of Income Tax (Appeals)I, Coimbatore dated 18.06.2003 made in ITA.NO.276/02-03 and against the Assesment order of the Income Tax officer ,Ward III(3) Coimbatore dated 24.09.2002 in PAN/GIR NO.B-312/W-II (3).

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
For respondent : Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyar Padmanabhan

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 'D' Bench, Chennai, dated 14.7.2005 made in M.P.No.308/Mds/2004 in ITA No.1691/Mds/2003, by raising the following substantial question of law:

> "Whether, on the facts and in the circumstances of the case, the appellate Tribunal was right in law in holding that the assessee is being a flat promoter is eligible to claim the benefit of Section 44AD of the Income Tax Act?"

2. When the matter is taken up for admission, the learned Standing Counsel 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 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

ssk.

To

1.The Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai

2.The commissioner of Income Tax (Appeals)I, Coimbatore

3.The Income Tax officer ,Ward III(3) Coimbatore

TCA No.1208 of 2009

ASK(04/01/2019)