IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM :

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

Tax Case Appeal Nos.2077 & 2078 of 2008

The Commissioner of Income Tax,
Coimbatore ... Appellant in both the Appeals

-vs-

Smt.C.Vasantha ... Respondent in both the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 01.11.2007 in ITA Nos.614/Mds/2007 and 615/Mds/2007, for the Assessment years 2002-03 and 2003-04, respectively.

For Appellant : Mr.R.Sivaraman
in both the appeals

For Respondent : Mr.T.R.Senthil Kumar &
Mrs.K.G.Usha Rani
in both appeals

COMMON JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

These appeals by the Revenue are directed against the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, dated dated 01.11.2007 in ITA Nos.614/Mds/2007 and 615/Mds/2007, for the Assessment years 2002-03 and 2003-04, respectively.

*2.*Heard Mr.R.Sivaraman, learned Standing Counsel for the Revenue and Mr.T.R.Senthilkumar, learned Counsel for the Respondent.

3.T.C.A.No.2077 of 2008 has been admitted on 09.01.2009, on the following Substantial Question of Law:

> *"Whether in the facts and circumstances of the case, the Tribunal was right in holding that no notice under Section 148 can be issued unless the time limit for issuing notice under Section 143(2) had expired?"*

4.T.C.A.No.2078 of 2008 has been admitted on 09.01.2009, on the following Substantial Questions of Law:

> *"i)Whether in the facts and circumstances of the case, the Tribunal was right in holding that no notice under Section 148 can be issued unless the time limit for issuing notice under Section 143(2) had expired?*
>
> *ii)Whether in the facts and circumstances of the case, the Tribunal was right in holding that no notice under Section 148 can be issued when there was pendency of revised return?"*

5.We have perused the orders of Assessment as well as the Orders passed by the Commissioner of Income Tax, and we find that the tax effect in these appeals is lesser than the threshold limit mentioned in Circular No.3 of 2008, 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.

6.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 Questions of Law, framed for consideration, are left open. No costs.

[T.S.S., J.] & [V.B.S., J.]

msk **10.10.2018**

To

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

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

msk

T.C.A.Nos.2077 and 2078 of 2008

10.10.2018