IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM

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

Tax Case Appeal Nos.1337 & 1338 of 2009

Commissioner of Income Tax,
Trichy. ... Appellant in both appeals

Vs.

A.N.Nazar Mohammad ... Respondent in both appeals

T.C.A.No.1337 of 2009 is 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 30.01.2006, made in ITA No.1226/mds/04.

T.C.A.No.1338 of 2009 is 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 30.01.2006, made in ITA No.1227/mds/04, against the common order of the commissioner of Income Tax (Appeals), No.4, Williams Road, Contonment, Tiruchirapalli - 620 001 order dated 27/02/2004 made in I.T.A.Nos.108,109/2003-04, 110 & 111 for the assessment year 1996-97 and 1997-98 against the order of the Income Tax Officer, Ward - I(2), Kumbakonam made in GIR No.1776-n/1996-97 and 1997-98, dated 28/03/2003.

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.)

These Tax Case Appeals have 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

30.01.2006, in ITA Nos.ITA No.1226/mds/04 and 1227/mds/04, by raising the following substantial question of law :

> "Whether in the facts and circumstances of the case, the Tribunal was right in holding that the reassessment proceedings is time barred as per Section 153(2) and setting aside the reassessment proceedings when the notice under Section 148 was issued prior to the amendment to Section 153 (2) ?

2. When the matters are 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 appeals filed by the Revenue are dismissed, as not pressed, keeping open the substantial question of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

dixit
To
1. The Income Tax Appellate Tribunal, Chennai Bench 'C' Chennai.

2. The Commissioner of Income Tax (Appeals),
No.4, Williams Road, Cantonment, Tiruchirapalli -620001.

3. The Income Tax Officer,
The Income Tax Department, Ward-I(2), Kumbakonam.

+2cc to M/s.S.Sridhar, Advocate SR.No.85288,85289

+2cc to M/s.M.Swaminathan, Advocate SR.No.85376, 85377

+1cc to M/s.S.Premalatha, Advocate SR.No.85913

TCA Nos.1337 & 1338 OF 2009

CP(CO)
GMY(11/01/2019)