IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

Tax Case Appeal No.2211 of 2008

The Commissioner of Income Tax,
Chennai.

.... Appellant

-vs-

M/s. Keld Ellentoft India Pvt. Ltd.

...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 02.05.2008 in IT(SS)A No.3/Mds/2007, for the Assessment year 2002-03.

For Appellant : Mr.Karthick Ranganathan

For Respondent : Mr.G.Bhaskar

JUDGMENT

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

This appeal by the appellant/Revenue is directed against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 02.05.2008 in IT(SS)A No.3/Mds/2007, for the Assessment year 2002-03.

2.Heard Mr.Karhick Ranganathan, learned Counsel for the appellant/Revenue and Mr.G.Bhaskar, learned Counsel for the assessee/respondent.

3.The following Substantial Question of Law have been framed for consideration:

> *"Whether on the facts and circumstances of the case, the Tribunal was right in holding that holding that the provisions of Section 40A3 cannot be invoked to disallow 20 percent of cash purchases from the black market?"*

4.We have perused the order of Assessment as well as the

Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, 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.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Questions of Law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

[T.S.S., J.] & [N.S.K., J.]
13.11.2018

mrm

To

The Income Tax Appellate Tribunal Madras 'B' Bench.

T.S.Sivagnanam, J.
and
N.Sathish Kumar, J.

mrm

T.C.A.No.2211 of 2008

13.11.2018