IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

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

Tax Case Appeal No.1384 of 2009

Commissioner of Income Tax I
Trichy.
... Appellant

Vs.

M/s.Sri Ramavilas Weaving Factory
SF No.2262, Pari Nagar,
Chinna Andan Koil Street,
Karur - 639 002.
... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 10.07.2009 made in ITA No.76/Mds/2009 for the assessment year 2003-04. against the order of the Commissioner of Income - Tax (Appeals), Tiruchirappali, dated:04/11/2008 and made in ITA.No.16/08-09 for the Assessment year 2003-04.

Against the order of the Deputy Commissioner of Income -Tax, Circle -III, Tiruchirappali dated:24/03/2008 and made in PAN.AABF58790C/GIR-II/07-08/TRY.

For Appellant : Mr.T.Ravikumar
Sr.Standing Counsel
For Respondent : Mr.V.S.Jayakumar

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 'A' Bench, Chennai, dated 10.07.2009 made in ITA No.76/Mds/2009 for the assessment year 2003-04 by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the penalty of Rs.6,44,550/- levied on the assessee under section 271(1)(c) of the the Income Tax Act, without appreciating the effect of Explanation 1 to section 271(1)(c) and without applying the ratio of the decision of the Supreme Court in the case of Union of India v. M/s.Dharmendra Textiles Processors (306 ITR 277)?"

2. When the matter is taken up for admission, the learned Senior 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 IV)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Income-Tax I,
Trichy.

2.The Commissioner Of Income Tax (Appeals)
Tiruchirappalli.

3.The Deputy Commissioner of Income-Tax,
Circle-II, Tiruchirappalli.

4.The Income-Tax Appellate Tribunal,
Madras 'A' Bench, Chennai.

+1cc to Mr.T.Ravikumar , Advocate, S.R.No.80752
+1cc to Mr.V.S.Jayakumar, Advocate, S.R.No.81062

TCA No.1384 of 2009

SV(CO)
GSP(26/12/2018)