IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case Appeal No.248 of 2009

The Commissioner of Income Tax,
City Circle-III(Inv.),
Chennai. ... Appellant

-vs-

Mohanraj Bagmar ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench, dated 30.05.2005 in ITA No.1365/Mds/2002, for the Assessment year 1987-88.

For Appellant : Mr.M.Swaminathan

For Respondent : Mr.P.Senthil Kumar

JUDGMENT

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

This appeal by the Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, dated dated 30.05.2005 in ITA No.1365/Mds/2002, for the Assessment year 1987-88, as against the order of the Income Tax Appellate Tribunal, Chennai Bench 'A' made in ITA No.1251/Mds/98, dated 30.05.2005 as against the order of the Commissioner of Income Tax (Appeals) X Chennai made in ITA No.168/2001-02, dated 08.03.2002 as against the Deputy Commissioner of Income Tax Chennai Circle III Chennai-6 for Assessment year 1987-88 dated 29.03.2001.

2.Heard Mr.M.Swaminathan, learned Counsel for the appellant/Revenue and Mr.P.Senthil Kumar, learned Counsel for the Respondent/assessee.

3.This Appeal has been admitted on 27.04.2009, on the following Substantial Questions of Law:

"1.Whether in the facts and circumstances of the case, the Tribunal was right in holding that Rs.4,35,000/- representing 13 fixed deposit receipts is not accessable as unexplained investments in the hands of the assessee even though the assessee had shifted its stand regarding the source of the fixed deposits?

2.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding and had valid material to hold that Rs.4,35,000/- representing 13 fixed deposit receipts was not accessable as unexplained investments in the hand of the assessee and in disregarding relevant material like the shifting stands adopted by the assessee with respect to the ownership of the deposits?"

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 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.

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.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

msk

To

1.The Income Tax Appellate Tribunal Madras 'A' Bench.

2. The Member, Income Tax Appellate Tribunal Chennai Bench 'Á' Chennai.

3. The Commissioner of Income Tax Appells X Chennai

4. The Deputy Commissioner of Income Tax Chennai circle III(INV) Chennai-6

+1cc to Mr.S.Premalatha, Advocate SR.No.79851

+1cc to Mr.G.Baskar, Advocate SR.No.79358

T.C.A.No.248 of 2009

CNR(CO)

GMY(28/12/2018)