IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2018

CORAM :

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

Tax Case Appeal No.29 of 2009

The Commissioner of Income Tax,
Coimbatore. .... Appellant /Respondent

-vs-

Shri K.G.Murugesan,
54,Thillai Nagar,
Erode-638 001 ... Respondent /Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'D' Bench, dated 25.08.2006 in ITA No.2757/Mds/2006, for the Assessment year 1997-98, against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore dated 05/10/2005, made in Appeal Nos.146, 147, 148 & 149/05-06 and against the order of the Income Tax Officer, ward I (2), Erode, Dated 28.03.2005 made in P.A.No.12PM0744/ACWPM6085H.

For Appellant : Mrs.Usha Rani
for Mr.T.R.Senthil Kumar

For Respondent : Mr.R.Senniappan

JUDGMENT

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

This appeal by the appellant/Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, dated 25.08.2006 in ITA No.2757/Mds/2006, for the Assessment year 1997-98 .

2.Heard Mrs.K.G.Usha Rani for Mr.T.R.Senthil Kumar, learned Counsel for the appellant/Revenue and Mr.R.Senniappan, learned Counsel for the Respondent/assessee.

3.This Appeal has been admitted on 25.02.2009, on the following Substantial Questions of Law:

> "(i)Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was justified in holding that there was no valid reasons for reopening inspite of the fact that the income escaping assessment admitted by the assessee was not a justifiable reason for making the reassessment?
>
> (ii)Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in law in holding that Sec.148 notice was irregular without considering Section 292-B of the Income Tax Act? And
>
> (iii)Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in not considering the judgment rendered in Precot Mills wherein it was held that income escaping assessment for any reason would be sufficient case for making reassessment?"

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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioiner of Income Tax (Appeals)-I,
Coimbatore.

3.The Income Tax Officer, Ward I(2),
Erode.

4.The Commissioner of Income Tax,
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.73767

T.C.A.No.29 of 2009

br[co]
srg 20/11/2018