IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

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

Tax Case (Appeal) No.352 of 2009

The Commissioner of Income-tax,
Coimbatore.
... Appellant/ Respondent

-vs-

Shri.P.V.Chandran,
9A, Valluvar Street,
Sivanandha Colony,
Coimbatore-641 012.
PAN ACOPC4846Q. ... Respondent/ Appellant

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Bench 'D', Chennai, dated 26.09.2008, in I.T.A.No.1374/Mds/2008 for the assessment year 2006-07. and against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore, dated:02/06/2008 in Appeal No.277/07-08 and against the order of the Assissant Commissioner of Income Tax, Circle-II, Coimbatore-18, dated:02/01/2008 in PAN.No.GIR.No.ACOPC4846Q

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent : Mr.G.Baskar,
and Ms.Sree Lakshmi Valli

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, filed by the Revenue under Section 260A of the Income-tax Act, 1961, is directed against the order of the Income Tax Appellate Tribunal Bench 'D', Chennai, dated 26.09.2008, in I.T.A.No.1374/Mds/2008 for the assessment year 2006-07.

2. The appeal has been admitted, on 22.06.2009, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in restoring the issue to the file of the assessing officer, even though the claim of the assessee has not related to the year under consideration and the assessee has not produced any evidence for the nature of services rendered such as Drafting of Agreement with the Tamil Nadu Electricity Board or Project Report for obtaining the Bank Loan?
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> (ii) Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in law in restoring the issue to the file of the assessing officer with a direction to decide afresh in accordance with law, even though charging of interest under sections 234B & 234C is validly initiated by the assessing officer?"

3. Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant and Mr.G.Baskar, learned counsel for the respondent.

4. We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax (Appeals)-I 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, this 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal Bench 'D',
Chennai.

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

3.The Assistant Commissioner of Income Tax,
Circle-II, Coimbatore-18

+1cc to Mr.N.Muthukumar, Advocate, S.R.No.79724

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.79910

T.C.(A) No.352 of 2009

KK(CO)
GSP(20/12/2018)