IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM

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

Tax Case Appeal No.407 of 2009

The Commissioner of Income Tax
Business Range - III, Chennai.
.... Appellant/Appellant

Vs.

Shri.B.K.Bhasin
A-31, Asian Towers,
23rd Street, Ashok Nagar,
Chennai - 600 083.
.... Respondent/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 28.08.2008 made in IT (SS)A No.140/Mds/2007 for the block period ending 19.01.2001, against the order dated 06/06/2007 in Appeal No.CIT(A)/CHE/09/07-08 by the Commissioner of Income Tax (Appeals)-II, chennai-34 and against the order dated 19/01/01 in PA.NO./G.I.NO. 34706-B by the Deputy Commissioner of Income Tax, CC-III(4), Chennai-600 034.

For Appellant : Ms.Premalatha
for Mr.M.Swaminathan
For Respondent : No appearance

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 28.08.2008 made in IT(SS)A No.140/Mds/2007 for the block period ending 19.01.2001 by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal is right in finding that the AO has failed to demonstrate that the order under section 158BC dated 30.03.2003 suffered from a mistake which was apparent from record?

(ii) Whether on the facts and circumstances of the case, the Tribunal is right in deleting the addition of Rs.61,74,395/- to the undisclosed income in the order made under section 154 of the I.T. Act?

(iii) Whether on the facts and circumstances of the case, the Tribunal is right in not considering that the AO did was only a rectification of a simple mistake in terms of section 158 B(1)(c)(A)?"

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. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax, Appeal II,
46, Mahatma Gandhi Salai, Nungambakkam, Chennai-34.

3.The Deputy Commissioner of Income Tax,
Central Circle III(4),
Chennai-600 034.

+1cc to Ms.Premalatha, Advocate sr.no.81248

TCA No.407 of 2009

sj(co)
nr 21/12/2018