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.450 of 2009

The Commissioner of Income Tax,
Chennai-600 034 ... Appellant

vs

M/s.Kader Investment &
Training Co.(P) Ltd.,
3/284, Muttukadu Road,
Neelangarai,
Chennai-600 041 ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 28.11.2008 in ITA No.1675/Mds/2003, for the Assessment year 2000-01 preferred against the order of Commissioner of Income Tax, (Appeals)-III Chennai, dated:03/07/03 directed agaist the order dated:31/01/2003 passed by the Income Tax, Officer, Company ward-II-1, Chennai.

For Appellant : Mr.Karthik Ranganathan

For Respondent : Mr.A.S.Sriraman

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 'B' Bench, dated 28.11.2008 in ITA No.1675/Mds/2003, for the Assessment year 2000-01.

2.Heard Mr.Karthik Ranganathan, learned Counsel for the appellant/Revenue and Mr.A.S.Sriraman, learned Counsel for the Respondent/assessee.

3.This Appeal has been admitted on 06.07.2009, on the following Substantial Questions of Law:

> "(i)Whether in the facts and circumstances of the case, the Tribunal was right in remitting the matter to the assessing officer to await the outcome of the final writ petition. Without applying its mind on whether the issue in question will have no bearing on the assessee's case?
>
> (ii)Whether on the facts and circumstances of the case, the deduction u/s.80HHC can be granted ignoring the negative figure with respect to profits of the business, taking only the profits on sale of export incentives into account?"

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 IV)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax,
Chennai-34

3.The Commissioner of Income Tax(Appeals)III
Chennai

4.The Income Tax Officer,
Company ward.II-1,
Chennai.

+1cc to Mr.Karthik Ranganathan, Advocate, S.R.No.73810

T.C.A.No.450 of 2009

PP(CO)
GSP(26/11/2018)