IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

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

Tax Case Appeal Nos.463 to 465 of 2009

Commissioner of Income Tax-1,
Madurai. ... Appellant

Vs.

N.N.Swaminathan Chettiar ... Respondent

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 31.10.2008 made in ITA Nos.956/Mds/2007, 958/Mds/2007 and 959/Mds/2007 respectively against the assessment order dated 12.12.2006 made in ITA.NOs.341/2006-07,343/2006-07 and 344/2006-07 Passed by the Commissioner of Income Tax (Appeals)-II,Madurai.

Against the assessment order dated 28.09.2006 made in CR.NO.85(4)CR mdu/06-07 Assesment year 1999-2000, 2001-2002 and 2002-2003 passed by the Additional Commisioner of Income Tax Central Range Madurai.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Mr.T.Vasudevan

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, dated 31.10.2008 made in ITA Nos.956/Mds/2007, 958/Mds/2007 and 959/Mds/2007 respectively, by raising the following substantial question of law:

> "Whether, in the facts and circumstances of the case, the Tribunal was right in deleting the penalty levied under Section 271D of the Act on the ground that the fact that the loan was from the assessee's wife amounted to reasonable cause for the assessee to receive

the loan in cash in total contravention to the provisions of Section 269SS of the Income-tax Act?"

2. When the matters are taken up for admission, the learned 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 cases, the tax effect is less than the monetary limit imposed and therefore, the appeals are dismissed as not pressed, preserving the substantial question of law for determination in an appropriate case.

Sd/--
Assistant Registrar(CS)

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Sub Assistant Registrar

ssk.
1.The Commisioner of Income Tax(Appeals)-II, Madurai.

2.The Additional Commisioner of Income Tax Central Range Madurai.

3.The Commisioner of Income Tax -I, Madurai.

4.The Income Tax Appellate Tribunal,'B Bench Chennai.

+1cc to Mr.M.Swaminathan , Advocate SR.No. 80721

TCA Nos.463 to 465 of 2009

ASK(09/01/2019)