IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM

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

Tax Case Appeal No.505 of 2009

Commissioner of Income Tax
Kumbakonam. .... Appellant

Vs.

Kumbakonam Mutual Benefit Fund Ltd.,
TSR Big St., Kumbakonam. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 30.10.2008 made in ITA No.661/Mds/2007 for the assessment year 2003-04.

Against the order of the Commissioner of Income Tax (Appeals), Tiruchirappalli, dated 14.11.2006 made in I.T.A.No.113/CIT(A)/TRY/2006-2007 against the Assessment order of the Assistant Commissioner of Income Tax, Circle-I, Kumbakonam dated 31.03.2006 made in G.I.No.8020-T/AADFT0308D for the Assessment year 2003-04.

For Appellant : Mr.M.Swaminathan
Sr.Standing Counsel

For Respondent : Mr.Venkat Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

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 ''C' Bench, Chennai, dated 30.10.2008 made in ITA No.661/Mds/2007 for the assessment year 2003-04 by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case the Tribunal was right in holding that a sum of Rs.73.38 lacs had to allowed as deduction on the ground that the said interest income was not received and tax cannot be levied on hypothecal income, even though the assessee was following accrual system of accounting?"

2. When the matter is 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 case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax (Appeals), Tiruchirappalli.

3. The Assistant Commissioner of Income Tax, Circle-I, Kumbakonam.

+1 cc to Mr.M.Swaminathan, Advocate Sr.No.88075
+1 cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate Sr.No.88236

TCA No.505 of 2009

CSL/21.01.2019