IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM

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

Tax Case Appeal No.512 of 2009

The Commissioner of Income Tax
Trichy. .. Appellant

Vs.

M/s.The Lakshmi Vilas Bank Ltd.,
Salem Road, Kathaprai, Karur. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 19.1.2007 made in ITA No.715/Mds/2005.

The Income Tax Appellate Tribunal 'Chennai Bench D', Chennai, I.T.A.No.718 to 721 (Mds)2005, Assessment Year 1993-94,1994-95,1997-98 & 1998-99 against the Assistant Commissioner of Income Tax Company Circle-I, Tiruchirapalli, I.T.A.No.689 to 691 & 751 (Mds) 2005 Assessment Year 1993-94,1994-95,1998-99 & 1997-98 against the Commissioner of Income Tax (Appeals) I.T.A.No.33/2001-02 dated 30.12.2004 G.I.NO/P.A.NO. 101CIT19/AAACT4291P, Assessment Year 1998-99 against the Commissioner of Income Tax (Appeals) I.T.A.No.41/2000-2001 dated 30.12.2004 G.I.P.A.No.101CIT19/AAACT4291P, Assessment Year 1997-1998 against the Additional Commissioner of Income Tax, Special Range, Tiruchirappalli G.I.No.109-T/JC-SR/TRY Assessment Year 1998-1999 against the Joint Commissioner of Income Tax, Special Range, Tiruchirappalli, G.I.No.109-T/SR/TRY, Assessment Year 1997-1998.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Mr.R.Vijayaraghavan

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, 'D' Bench, Chennai, dated 19.1.2007 made in ITA No.715/Mds/2005, by raising the following substantial question of law:

> "(i) Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that 2% of the total dividend received by the assessee may be relatable to the expenditure for the purpose of earning the dividend income under Section 80M of the Income Tax Act, 1961?"

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 IV)

//True Copy//

Sub Assistant Registrar

ssk.

To

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

2. The Assistant Commissioner of Income Tax,
   Company Circle-I, Tiruchi.

3. The Commissioner of Income Tax (Appeals),
   No.41 Williams Road, Contonment, Tiruchirappalli.

4. The Additional Commissioner of Income Tax,
   Special Range, Tiruchirappalli.

5. The Joint Commissioner of Income Tax,
   Special Range, Tiruchirappalli.

6. The commissioner of Income Tax,
   Tiruchirappalli.

TCA No.512 of 2009

VSN-II(CO)
CSL/28.02.2019