IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM

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

Tax Case Appeal Nos.514 and 515 of 2009

Commissioner of Income Tax II
Madurai ... Appellant

Vs.

Shri.T.Kodeeswaran ... 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 21.10.2018 made in ITA.No. 2089/MDS/2007 and 2090/MDS/2007 respectively against ITA.No. 034 and 035 of 2007 passed by the Commissioner of Income Tax (Appeals) II, Madurai dated 10.07.2007 against the proceedings of the Income Tax Officer, Ward - I (1), Virudhunagar in RCL-1272/I(1)VNR/86-87 and PA.No. PQ-1272/I(1)/VNR/86-87 dated 28/09/1999 against the Order passed by the Income tax officer, Ward I (1 Virudhunagar in PAN No. 49-007-PQ- 1272 dated 31.03.99 for the Assessment year 1986-87 and 1987-1988 respectively.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

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, Madras 'B' Bench, Chennai, dated 21.10.2018 made in ITA No.2089/Mds/2007 and 2090/Mds/2007 respectively, by raising the following substantial question of law:

> "(i) Whether, on the facts and circumstances of the case the Tribunal was right in holding that failure to file return due to non-filing of return for earlier years is a reasonable cause warranting deletion of penalty under section 271(1)(a)?"

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 case, 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

//True Copy//

Sub Assistant Registrar

TO

1.The Income Tax,
Appellate Tribunal,
Bench B Chennai.

2. The Commissioner of Income Tax (Appeals) -I,
Madurai.

3.Income Tax Officer, Ward - I(1),
Virudhunagar.

+1cc to Mr. S.Sridhar, Advocate, S.R.No. 80569
+1cc to Mr. S.Premalatha, Advocate, S.R.No. 79849

TCA No.514 & 515 of 2009

RGN(CO)
GN(18/12/2018)