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 No.569 of 2009

Commissioner of Income Tax I
Madurai. .. Appellant

Vs.

M/s.T.V.Sundaram Iyengar & Sons Ltd.,
7-B West Veli Street Madurai 625 001. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 12.9.2008 made in ITA No.2157/Mds/2007.

Against the proceedings of the Commissioner of Income Tax (Appeals)-I, Madurai in I.T.A.No.102/2004-05 dated 30.03.2007 against the Assistant Commissioner of Income Tax Company Circle-I, Madurai dated 05.03.2004 for the Assessment Year 2001-2002.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : No appearance.

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, dated 12.9.2008 made in ITA No.2157/Mds/2007, by raising the following substantial questions of law:

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal was right

in holding that the investments of the assessee are not financed by borrowings, but by internal funds having no co-relation to the loans availed, and therefore eligible for deduction, in the light of precedents and in the light of the incorrect application of the relevant statutory provisions?
ii) Whether, on the facts and circumstances of the case, the onus of proving that the investments came out of its own funds and not out of borrowals is not on the assessee?"

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 less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk

To

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

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

+1 cc to mr.M.Swaminathan, Advocate Sr.No.80720

TCA No.569 of 2009

RK(CO)
CSL/02.01.2019