IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM

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

Tax Case Appeal No.615 of 2009

Commissioner of Income Tax I
Madurai.
.... Appellant/Appellant

Vs.

K.Rajasankar
6 Velavar Illam,
Jawahar 1st Cross Street,
NRT Nagar, Theni. .... Respondent/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 26.09.2009 made in IT (SS)A No.122/Mds/2003 for the block period 1989-90 to 1999-2000 till 26.10.1999. against the order of the Commissioner of Income Tax Appeals-I, Madurai dated 24.03.2003 made in ITA.No.296/2001-02 for the Assessment Year 1989-90 to 1999-2000 (till 26.10.1999) against the order of the Deputy Commissioner of Income Tax, Circle-I, Madurai, dated 30.10.2001 made in PAN.No./CIR.I/MDU:HN-5369 for the assessment year 90-91 to 2000-2001 (till 26.10.1999).

For Appellant : Ms.S.Premalatha
for Mr.M.Swaminathan

For Respondent : Mr.A.S.Sriraman
for Mr.S.Sridhar

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 'D' Bench, Chennai, dated 26.09.2009 made in IT(SS)A No.122/Mds/2003 for the block period 1989-90 to 1999-2000 till 26.10.1999 by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the fixed deposit came out of withdrawals from the bank contrary to the sworn statement of the assessee that it was done out of undisclosed income?

(ii) Whether on the facts and circumstances of the case, the Tribunal was right holding that the investment on construction of the house and expenditure on his son's marriage had come from sums drawn from the bank, when there was no basis to hold so, and contrary to the sworn statement of the assessee that it was done out of undisclosed income?

(iii) Whether on the facts and circumstances of the case, the Tribunal was right in restricting the amount of undisclosed income towards on money paid for purchase of agriculture land?"

2. When the matter is taken up for admission, the learned Senior 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. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax I,
Madurai

3. The Commissioner of Income Tax Appeals-I,
Madurai.

4. The Deputy Commissioner of Income Tax Circle-I, Madurai.

+1cc to Ms.S.Premalatha , Advocate, S.R.No.81250

TCA No.615 of 2009

VBA(CO)
CS/03/01/2019