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.617 of 2009

Commissioner of Income Tax
Madurai.
.... Appellant

Vs.

Shri.T.,Kodeeswaran
(L/H of Late Shri Shri A.Thangam),
39-A, Devanger South Street,
Srivilluputhur - 626 125.
.... 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 20.10.2008 made in ITA No.2100/Mds/2007 for the assessment year 1987-88.

against the Order of the Assistant Commissioner of Income Tax, Central Circle I, Madurai - 2 dated 28/03/1990 made in PAN 49-005-PN-2080/ 87-88 against the Order of the Secretary Additional Bench, Income Tax Settlement Commission, Madras 35 against the Order of the Assistant Commissioner of Income (OSD) Ward - I (i) (I/C) Virudhunagar dated 27/03/1995 made in PAN/GIR.No. PO 1272/VNR(1) against the Order of the Commissioner of Income Tax (Appeal I) Madurai dated 30/09/1996 made in PA.No. PO-1272/I.T.Appeal No. 401/95-96 (A.Y-87-88) against the Order of the Income Tax Officer, Ward I (1) Virudhunagar, dated 31/03/1999 made in PA.No./GIR.No.49-005-PO-1272 for the Assessment Year 1987-88 against the Income Tax Officer - Ward I (i) Virudhunagar, dated 28/09/1999 made in PQ 1272/I(1)/VNR/87-88 againstthe Order of the Commissioner of Income TAX (Appeals) Madurai dated 23/04/2001 made in P.A.N. PQ-1272.

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 'B' Bench, Chennai, dated 20.10.2008 made in ITA No.2100/Mds/2007 for the assessment year 1987-88 by raising the following substantial question of law:

> "Whether on the facts and circumstances of the case, the Tribunal was right in deleting the penalty under section 271(1)(c) ignoring explanation 5 thereto?"

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 question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

To

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

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

3) The Secretary, Additional Bench,
Income Tax Settlement Commission,
488-489, Anna Salai,
Nandanam, Madras 600 035.

4. The Assistant Commissioner of Income Tax
   (OSD) Ward - I (1), (I/C),
   Virudhunagar.

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

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

+1cc to Mr.S.Premalatha, Advocate, S.R.No. 81251
+1cc to Mr.S.Sridhar, Advocate, S.R.No. 82342

TCA No.617 of 2009

NM(CO)
GN(03/01/2019)