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.784 of 2009

Commissioner of Income Tax
Trichy I, Trichy. Appellant/Respondent

Vs.

Sri Rama Vilas Weaving Factory,
S.F.No.2262, Pari Nagar,
Chinna Andan Koil Street, Karur. Respondent/ Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 7.11.2008 made in ITA No.1567/Mds/2008. Against the order of the Commissioner of Income Tax (Appeals), Tiruchirappalli dated 16.10.2006 in ITA No.79/06-07 against the order of the Deputy Commissioner of Income Tax, Circle-II, Trichy, dated 22.03.2006 in PAN/GIR No.AABFS8790/C/Cir-II/Try for the Assessment year 2002-03.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel assisted by
Ms.Premalatha

For respondent : Mr.V.S.Jayakumar

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, 'C' Bench, Chennai, dated 7.11.2008 made in ITA No.1567/Mds/2008, by raising the following substantial questions of law:

"(i) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the additions on account of purchases from M/s.Amman Traders and M/s.Akram Tex ignoring the evidence brought in by the Assessing Officer to show that the alleged sellers were not available at the addresses given and did not have the financial capacity to sell goods to the assessee?

(ii) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in coming to the conclusion referred to in the preceding question without appreciating that the onus of proving the genuineness of the expenditure by way of purchases is entirely on the assessee who claimed the expenditure?"

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 questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

ssk.

To
1. The Income Tax Appellate Tribunal, 'C' Bench, Chennai.

2. The Commissioner of Income Tax (Appeals) Tiruchirappalli.

3. The Deputy Commissioner of Income Tax, Circle II, Trichy.

TCA No.784 of 2009

NMI(CO)
GMY(01/02/2019)