IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM

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

Tax Case Appeal No.83 of 2009

Commissioner of Income Tax
Salem. .. Appellant

Vs.

Sri.P.Velappan .. 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 6.6.2008 made in IT (SS)A No.69/Mds/2006.

Against the order of the Commissioner of Income Tax (Appeals)-II, Coimbatore made in I.T.A.No.337C-C/04-05, order dated 09.01.2009 for the Block Assessment for block period 01.04.1996 to 14.11.2002 and against the order of the Deputy Commissioner of Income Tax, Central circle, Salem made in P.A.N./G.I.R. NO.CCPV-009/PAN-AAZPV0975C, order dated 29.11.2004.

For Appellant : Mr.K.G.Usharani for
Mr.T.R.Senthilkumar,
Senior Standing Counsel

For respondent : M/s.R.Jeevitha

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 6.6.2008 made in IT(SS)A No.69/Mds/2006, 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 deleting the addition of Rs.65 lakhs assessed as undisclosed income in the hands of the assessee firm in the assessment made under Section 158BC for the block assessment period 1.4.1996 to 14.11.2002, even though the partner of the seller firm M/s.K.P.R.&Co., had admitted in their sworn statements about the payment and receipt of the said amount in the purchase and sale of six tankers made by them respectively?

(ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was enhancement of income in the hands of partners Sri Elancharan and Sri Velappan by the Commissioner of Income Tax (A) without giving notice to them under Section 251(1) of the Income Tax Act, even though the Commissioner of Income Tax(A) has only reduced the income assessed in their hands by directing that only one sixth of the unaccounted income payment of consideration for the tankers should be assessed in their hands as against one half assessed by the Assessing Officer on a protective basis?"

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 VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To

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

2.The Commissioner of Income TAx,
Salem.

3. The Deputy Commissioner of Income Tax,
Central Circle, Salem.

TCA No.83 of 2009

CP(CO)
CSL/11.01.2019