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.834 of 2009

The Commissioner of Income Tax
Coimbatore.
...Appellant/Appellant

Vs.

Srieevastava Family Trust,
8/2 Mettupalayam Road,
Coimbatore 641 043.
...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 5.10.2007 made in I.T.A.No.1065/Mds/2005. Against order of the Commissioner of the Income Tax (Appeals)-I, Coimbatore. Dated:10/02/2005 made in Appeal no.681/01-02 against order of the Deputy Commissioner of Income Tax, Company Circle-II(2), Coimbatore dated:30.03.2001 made in S.22611/C.O.II(2) for the Assessment year 1995-96.

For Appellant : Mr.Karthik Ranganathan

For respondent : Mr.T.Vasudevan

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 5.10.2007 made in I.T.A.No.1065/Mds/2005, by raising the following substantial questions of law:

"(i) Whether, in the facts and circumstances of the case, the Tribunal was right in holding that the status of the assessee as individual when the assessee admittedly had reported its status as AOP/TRUST in its return?

(ii) Whether, in the facts and circumstances of

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the case, the Tribunal was right in holding that the provisions of section 40(ba) cannot be invoked 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 II)

//True Copy//

Sub Assistant Registrar

ssk.

To

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

2.The Commissioner of the Income Tax, (Appeal)-I
Coimbatore.

3.The Deputy Commissioner of Income Tax,
Company Circle-II (2), Coimbatore.

सत्यमेव जयते

GSP(07/01/2019)

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