IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM

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

Tax Case Appeal No.841 of 2009

The Commissioner of Income Tax
Chennai. Appellant / Appellant

Vs.

Late A.Y.Prabakar
(Through Legal Heir) 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 'A' Bench, Chennai, dated 10.3.2006 made in ITA No.201/Mds/2006 for the Assessment year 1997-98 against the order of C.I.T (Appeals)VIII, Chennai dated 28.09.2005 made in ITA No.43/2004-05.

For Appellant : Mr.T.R.Senthilkumar,
Senior Standing Counsel

For respondent : Mr.R.Sivaraman

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 'A' Bench, Chennai, dated 10.3.2006 made in ITA No.201/Mds/2006, by raising the following substantial question of law:

> "i) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the protective assessment cannot be made in the hands of the assessee herein when the appeals in respect of the other two beneficiaries i.e., Smt.Gandhi Prabakar and Smt.Padmavathi Ammal are pending before the Tribunal?"

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 question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

ssk Sub Assistant Registrar

To

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

2) The Commissioner of Income Tax, Chennai.

3) The Commissioner of Income Tax (Appeals)-VIII, Chennai,

4) The Assistant Commissioner of Income Tax,
Business Circle-IV, Chennai-34.

NMI(CO) TCA No.841 of 2009
SSM(01/02/2019)