IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.12.2018

CORAM

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

Tax Case Appeal No.861 of 2009

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

Vs.

Dr.B.Hari
Hari Hospitals,
Trichy Trunk Road,
Villupuram. .... 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 'C' Bench, Chennai, dated 29.12.2008 made in ITA No.1232/Mds/2008 for the Assessment Year 2005-06.

and against the Order dated 29.02.2008 made in ITA.No. 68/07-08 for the Assessment Year 2005-2006 on the file of the Commissioner of Income Tax (appeals) XII Chennai 34 and against the Order dated 29.12.2006 made in PAN.AAAPH2978N 21705H for the Assessment Year 2005-2006 on the file of the Assistant Commissioner of Income Tax Circle II, Cuddalore.

For Appellant : Mr.T.R.Senthil Kumar
Sr. Standing Counsel
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 'C' Bench, Chennai, dated 29.12.2008 made in ITA No.1232/Mds/2008 for the Assessment Year 2005-06 by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in confirming the order of the Commissioner of Income tax (Appeals) even though the assessee himself was unable to substantiate the claim of having incurred expenses towards fees paid to Doctors, purchase of lab chemicals and salary payments to the staff is valid?"

2. It is submitted by the learned Standing Counsel appearing for the Revenue that even though the name of the respondent is mentioned as Dr.B.Hari, Read (India) Ltd., the correct name of the respondent is Dr.B.Hari, which may be seen from the order of the Income Tax Appellate Tribunal.

3. In view of the above, the name of the respondent be read as 'Dr.B.Hari' instead of 'Dr.B.Hari, Read (India) Ltd.'

4. 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.

5. 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

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals) XII,
Chennai 34.

3.The Assistant Commissioner of Income Tax,
Circle II, Cuddalore.

4.The Commissiner of Income Tax,
Pondicherry.

KJ(CO)
GN(07/01/2019)