IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM

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

Tax Case Appeal No. 893 of 2009

Commissioner of Income Tax
Chennai. Appellant

Vs.

M/s.Data Software Research Company
(International) Pvt Ltd
No.6 Smith Road,
Chennai-600002. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 16.04.2009 made in ITA No.1602/Mds/2008 PAN No.AAACDI285B against the order of Commissioner of Income Tax (A) III, Chennai dated 21.04.2008 in I.T.A.No.79/2007-2008/A III, and arising out of the assessment order of Assistant Commissioner of Income Tax, Company Circle I (4) Chennai 34 dated 30.04.2007 in G.I. No. DX3204-2003-2004.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Vijayaraghavan

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 'B' Bench, Chennai, dated 16.04.2009, made in I.T.A.No.1602/Mds/2008 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 tax credit taken in the assessment year 1997-98 is available for set off even in the assessment year 2003-04, which is more than five

years later?”

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 question of law for determination in an appropriate case.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

arr
To

1. Income Tax Appellate Tribunal,
   Madras 'B' Bench, Chennai.

2. The Assistant Commissioner of Income Tax
   Company Circle I(4)
   Chennai 34.

3. The Commissioner of Income Tax (Appeals)III
   121, Mahathma Gandhi Road
   Chennai 34.

+1 CC to Mr.T.Ravikumar, Advocate sr 83856.

TCA No.893 of 2009

VSNII(CO)
SP(02/01/2019)