IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

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

Tax Case Appeal No.927 of 2009

Commissioner of Income Tax I
Trichirapalli.
.... Appellant

Vs.

Shri N.Renganathan
4 A, Cauvery Road,
Devadhanam,
Tiruchirapalli - 620 002.
.... 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 02.01.2009 made in IT (SS)A No.67/Mds/2002 for the block assessment period 1989-1990 to 1999-2000 against the order of the Commissioner of Income Tax (Appeals) Central I, Chennai vide order dated 25.01.2002 made in I.T.A. No. 230/2001-2002 against the order passed by the Deputy Commissioner of Income Tax Central Circle I(3) Chennai 34 in PAN No. NIL, dated 31.07.2000.

For Appellant : Mr.T.Ravikumar
Sr.Standing Counsel

For Respondent : Mr.V.S.Jayakumar

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 02.01.2009 made in IT(SS)A No.67/Mds/2002 for the block assessment period 1989-1990 to 1999-2000 by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that unexplained investments of the assessee who was the partner of the firms, in the form of credits in the capital and current accounts could not be assessed in the Block Assessment on the ground that the credits appeared in the regular books of accounts for which returns had been filed by the firms?

(ii) Without prejudice to the preceding question, whether the Appellate Tribunal was right in not adjudicating upon the correctness of the order of the Commissioner of Income Tax (Appeals) in holding that only the peak credit could be assessed in the hands of the assessee partner even though there was no nexus between credits brought in the books of the firm and the earlier cash withdrawals made by the assessee?"

2. When the matter is taken up for admission, the learned Senior 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.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

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

2. The Commissioner of Income Tax (APPeals) Central I
Chennai 34.

3. The Commissioner of Income Tax , Trichirapalli 1.

4. The Deputy Commissioner of Income Tax Central CircleI(3)
103, Mahathama Gandhi Road, Chennai 34.

+1 CC to Mr.V.S.Jayakumar, Advocate sr 81063.
+1 CC to Mr.T.Ravikumar, Advocate sr 80751

TCA No.927 of 2009

RGN(CO)
SP(28/01/2019)