IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

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

T.C.(A).No.946 of 2009

Commissioner of Income Tax,
Central-III, Chennai. .. Appellant

Vs

R.S.Prakash .. Respondent

Prayer : Tax Case (Appeal) is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 09.03.2009 passed in IT (SS) A.No.67/Mds/2007 for the Block Assessment Period 1.4.1995 to 26.12.2001.

For Appellant : Mr.T.R.Senthilkumar

For Respondent : Mr.R.Janakiraman

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JUDGMENT

(Judgment of the Court was delivered by **DR.VINEET KOTHARI, J.**)

Heard the learned counsel for the appellant.

2. The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in IT (SS) A.No.67/Mds/2007 dated 09.03.2009 for the Block Assessment Period from 1.4.1995 to 26.12.2001.

3. The above appeal has been admitted on 19.10.2009 on the following substantial questions of law :

> *"i. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the protective assessment made in the hands of the assessee for the block period under Section 158BD being the ostensible purchaser of a portion of the land was not valid since it was a protective assessment, ignoring the decision of the Supreme Court in the case of Lalji Haridas vs. Income Tax Officer (43 ITR 387)?''*

4. It may not be necessary for us to answer the above

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substantial questions of law, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. A Division Bench of this Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

> *"4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.*
>
> *5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open."*

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DR.VINEET KOTHARI, J.
AND
DR.ANITA SUMANTH, J.

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5. In the light of the above, the above appeal is dismissed. No costs. The substantial question of law is left open for consideration.

(V.K.J.,) (A.S.M.,J)

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Index:yes/no
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To
Commissioner of Income Tax,
Central-III, Chennai.

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