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.1107 of 2010

Commissioner of Income Tax
Central II
Chennai. .. Appellant

Vs.

M/s. Susee Auto Plaza P. Ltd.
No.89/102, Theni Road
Madurai 625 016. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench dated 29.01.2010 in ITA No.1708/Mds/2009.

against the Common order dated 09.07.2009 by the Commissioner of Income Tax (Appeals)II in I.T.A. Nos. 458, 460,461/2008-2009.

against the orders of the Additional Commissioner of Income Tax, Central Circle III(Conc.) Madurai for the Assessment years2004-2005, 2006-2007 & 2007-2008.

For Appellant : Ms.S.Premalatha
For Mr.M.Swaminathan
Senior Standing Counsel

For Respondent : 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, Chennai 'D' Bench dated 29.01.2010 in ITA No.1708/Mds/2009, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the entire addition including the addition sustained by the Commissioner of Income Tax (Appeals) on account of the excess amount collected towards registration of the vehicles sold by it over and above the legitimate registration expenses? and

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the material seized in the course of the search conducted in the sister concern doing business in the same premises and having common directors could not be used in the assessments of the assessee under Section 153C of the Income Tax Act?"

2. When the matter is taken up for hearing, 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 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 Commissioner of Income Tax
   Central II, Chennai.

2. The Income Tax Appellate Tribunal
   Chennai Bench 'D' Chennai.

3. The Commissioner of Income Tax Appeals II
   Bibikulam, Madurai 2.

4. The Additional Commissioner of Income Tax
Central Circle III, Madurai

T.C.A. 1107 of 2010.

SP(11/01/2019)