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.1251 of 2010

The Commissioner of Income Tax
Circle V
Chennai. .. Appellant

Vs.

Ramaniyam Ganesh .. 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 27.11.2009 made in ITA No.1214/Mad/08, against the order of the Commissioner of Income Tax (Appeals-VIII, Chennai dated 05.03.2008 and made in ITA.No.310/2007-2008 for the Assessment Year 2005-2006, against the order of the Assistant Commissioner of Income tax, Business Circle IV, Chennai dated 31.12.2007 and made in PAN/GIR No.AAHFR7851B for the Assessment year 2005-2006.

For Appellant : Mr.T.Ravi Kumar
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 27.11.2009 in ITA No.1214/Mad/08, by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in not considering the material fact that the housing project as per the sanctioned plan only for 94.68 cents and not on

106.68 cents? and

(ii) Whether on the facts and circumstances of the case, the Tribunal was right in not following the mandatory provision contemplated under Section 80 IB(10) which requires project completion certificate?"

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.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

kpl

To

1. The Commissioner of Income Tax, circle V, Chennai.

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

3. The Commissioner of Income Tax (Appeals) VIII, Chennai.

4. The Assistant Commissioner of Income Tax, Busines, Circle IV, Chennai.

+1cc to Mr.T.Ravi Kumar, Advocate SR.No.83292

+1cc to Mr.S.Sridhar, Advocate SR.No.84129

TCA No.1251 of 2010

SV(CO)
GMY(19/02/2019)