IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM

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

Tax Case Appeal No.444 of 2010

Commissioner of Income Tax
Central II, Chennai.
.... Appellant

Vs.

Mr.V.Ramadoss Chettiar
No.44-45, Vatukku Kottiar Street
Virudhachalam,
Cuddalore - 607 001.
.... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 09.09.2009 made in IT (SS)A No.34/Mds/2007 for the block period 01.04.1996 to 22.01.2003, against the order dated 19/03/2008 made in A.NO.CIT (A)/CHE/182/07-08 passed by the Commissioner of Income Tax (Appeals)II, Chennai and against the order dated 31/12/2007 passed by the Deputy Commissioner of Income Tax, Central circle II(5)(I/C) chennai 34 for the assessment year 01/04/96 to 22/01/2003 and against the order dated 24/11/2006 passed by the Commissioner of Income Tax, Chennai II, Chennai and against the order dated 31/01/2005 passed by the Assistant Commissioner of Income Tax, Central circle II(5), chennai, and against the order dated 27/02/2008 passed by the Income Tax Appellate Tribunal, Chennai Bench “c” madras Bench and against the order dated 28/11/06 made in A.NO.CIT(A)/CHE/15/06-07 passed by the Commissioner of Income Tax(Appeals)II, Chennai 34 for the assessment year 2003-04 and against the order dated 09/03/2006 passed by Deputy Commissioner of Income Tax, Central Circle II (5), Chennai.

For Appellant : Mrs.K.G.Usharani
for Mr.T.R.Senthil Kumar

Sr. Standing Counsel

For Respondent : No appearance

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 'C' Bench, Chennai, dated 09.09.2009 made in IT(SS)A No.34/Mds/2007 for the block period 01.04.1996 to 22.01.2003 by raising the following substantial questions of law:

> "(1) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in quashing the order of the Commissioner of Income Tax under section 263 of the Income Tax Act wherein he had set aside the original Block Assessment Order passed by the Assessing Officer without considering the excess stock found during the search and survey operation?
>
> (2) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in quashing the order of the Commissioner of Income Tax under section 263, following the decision of the Madras High Court in 284 ITR 222, without noticing the difference in facts, namely, in the assessee's case, the search and survey operation was conducted simultaneously in different premises and the survey was conducted as part of the search operation?".

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 questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax(Appeals)II, Chennai

3.The Deputy Commissioner of Income Tax,
Central Circle II(5)(I/C), Chennai.

4.The Assistant Commissioner of Income Tax,
Central Circle II(5), Chennai.

5.The Commissioner of Income Tax(Appelas)-II,
Chennai 34.

+1cc to Mr.T.R.Senthil kumar, Advocate sr.no.83215

TCA No.444 of 2010

sai(co)
nr 24/12/2018