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.627 of 2010

Commissioner of Income Tax -I
Tiruchirapalli.

.... Appellant

Vs.

Stm.V.Poongothai
No.26, Ramanujam Nagar,
Karur.

.... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai, dated 13.11.2009 made in ITA No.676/Mds/2009 for the Assessment year 2004-05. and against the order dated:19/02/2009 and made in ITA.484/06-07 on the file of the Commissioner of Income Tax (Appeals), Tiruchirapalli and against the order dated:19/12/2006 and made in PAN/GIR.No.AAGPP5603A on the Deputy Commissioner of Income Tax, Circle-II, Tiruchirapalli.

For Appellant : Mr.T.Ravikumar
Sr. Standing Counsel
For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Iyer Padmanabhan

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 'B' Bench, Chennai, dated 13.11.2009 made in ITA No.676/Mds/2009 for the Assessment year 2004-05. 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 confirming the order of the Commissioner of Income Tax (Appeals) deleting the additions of Rs.12,61,615/- for the AY 2004-05 and Rs.5,33,595/- for the AY 2005-06 made by the Assessing Officer by adopting the global method of valuation of closing stock for shares whereas the assessee had adopted scrip-wise valuation which gave a distorted picture of the value of closing stock?

(2) Whether on the facts and in the circumstances of the case,the Income Tax Appellate Tribunal was right in accepting the assessee's contention that the assessee had a right to choose its own method of valuation of closing stock of shares contrary to the decision of the Supreme Court in the case of Commissioner of Income Tax V. British Paints Ltd., 188 ITR 44 wherein it was held that the Assessing Officer was duty bound to work out the correct profits by adopting the correct method of valuation of closing stock?”

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

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'B' Bench, Chennai.

2.The Commissioner of Income Tax-I,
Tiruchirapalli.

3.The Commissioner of Income Tax(Appeals)
No.44, Williams Road, Cantonment ,
Tiruchirapalli-620 001.

4.The Deputy Commissioner of Income Tax,
Circle-II No.44, Williams Road, Tiruchirapalli.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.82508

+1cc to Mr.Subbaraya Iyer Padmanabhan, Advocate, S.R.No.83220

TCA No.627 of 2010

VD(CO)
GSP(10/01/2019)