IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) No.16 of 2011

The Commissioner of Income Tax-I,
Madurai. ... Appellant/Appellant

-vs-

Shri M.Vellaichamy
(PAN No.APVPV199OR) ... Respondent/Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 06.08.2010, passed in I.T.A.No.94/Mds/2010 for the assessment year 2006-07 against the order of Commissioner of Income Tax (Appeals)-I, Madurai in ITA No.0052/09-10 dated 04/11/2009 and against the order of Income Tax Officer, Ward I (3), Karaikudi in P.A No. APVPV199OR dated 30/06/2009.

For Appellant : Ms.V.Puspa
Standing Counsel

For Respondent : Mrs.C.Uma

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "A" Bench, Chennai, dated 06.08.2010, passed in I.T.A.No.94/Mds/2010 for the assessment year 2006-07.

2.Heard M/s.V.Pushpa, learned Standing Counsel for the appellant/Revenue and M/s.C.Uma, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 22.02.2011, on 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 law in deleting the penalty under Section 271(1)(c) of the Income Tax Act?

2.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in deleting the penalty under Section 271(1)(c) levied by the assessing officer on the basis of materials available on record, even though the addition made on account of unexplained investment in building, it is evident from the impounded materials during the course of survey under Section 133A of the Act?"

4.We have perused the Order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

cse

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To
1. The Income-tax Appellate Tribunal, "A" Bench, Chennai.
2. The Commissioner of Income Tax-I, Madurai
3. The Income Tax Officer, Ward I(3), Karaikudi.

+1CC To Mrs.C.Uma, Advocate SR No.81084
+1CC To Mr.M.Swaminathan, Advocate SR.No.80337.

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SJ(CO)
KAK(12/12/2018)