IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL NO.177 OF 2011

The Commissioner of Income Tax - IV,
Chennai. .... Appellant/Respondent

-vs-

Mr.M.N.Rajaraman
6, Vidyodaya First Cross St.
T.Nagar, Chennai - 600 017. ...Respondent/Appellant

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, dated 23.04.2010 in ITA No.616/Mds/2007, for the Assessment year 1999-00. against the common order dated 23.01.2007 made in ITA.No.75 & 77 to 81/06-07 on the file of Commissioner of Income Tax(Appeals)-I, Chennai-34 against the order dated 10.08.2006 made in F.No.CHE/CEN-1(3)/MNR/(SRM) 2006-07 on the file of Assistant Commissioner of Income Tax, Central Circle 1(3) Old No.108, Chennai-34.

For Appellant : Mr.T.R.Senthil Kumar

For Respondent : Mr.Quadir Hoseyn

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal by the appellant/Revenue is directed against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, dated 23.04.2010 in ITA No.616/Mds/2007, for the Assessment year 1999-00.

2.Heard Mr.T.R.Senthil Kumar, learned Counsel for the appellant/Revenue and Mr.Quadir Hoseyn, learned Counsel for the Respondent/assessee.

3.This Appeal has been admitted on 12.07.2011, on the following Substantial Question of Law:

> "(i)Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in quashing the order of the Assessing Officer levying a penalty of Rs. 18,33,458/- u/sec.271(1)(c) of the Income Tax 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 2008, 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.

Sd/-
Assistant Registrar(CO)

//True Copy//
Sub Assistant Registrar

mrm

To

1.The Income Tax Appellate Tribunal Madras 'B' Bench.
2.O/o The Commissioner of Income Tax,
(Appeals-I), Chennai-34.
3.The Assistant Commissioner of Income Tax,
Central Circle-1(3), Old No.108,
MG Road, Chennai-34.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.76073
+1cc to Mr.Quadir Hoseyn, Advocate, S.R.No.76001

T.C.A.No.177 of 2011

VGII(Co)
CS/11/12/2018