IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2018

CORAM:

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

Tax Case Appeal No.409 of 2011

The Commissioner of Income Tax,
Chennai .... Appellant

-vs-

Mr.M.P.Narayanan ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 26.05.2006 in ITA No.1464/Mds/2003, for the Assessment year 1995-96.

Appeal against the order of the Commissioner of Income Tax (Appeals)-IX 121, Mahatma Gandhi Road, Chennai-34 in ITA/Appeal No.138/2001-2002 dated 12/05/2003 in GIR No./PAN No.AAAFM246T against the Assessment order dated 17/01/2002 in PAN/GIR No.51355-M for the Assessment Year 95-96 on the file of the Deputy Commissioner of Income Tax Range VI, Chennai-34.

For Appellant : Mr.S.Rajesh

For Respondent : Mr.Venkata Narayanan
for M/s..Subbaraya Aiyer Padmanabhan

J U D G M E N T

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

This appeal by the appellant/Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 26.05.2006 in ITA No.1464/Mds/2003, for the Assessment year 1995-96.

2. Heard Mr.S.Rajesh, learned Standing Counsel for the appellant/Revenue and Mr.Venkata Narayanan, learned counsel for the respondent.

3. This Appeal has been filed raising the following Substantial Question of Law:-

> "Whether on the facts and circumstances of the case, the Tribunal was right in holding that penalty under Section 271(1)(C) cannot be levied in a case where the assessee filed its return under the VDIS but failed to pay the tax?".

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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

(svki)
To

1.The Income Tax Appellate Tribunal Madras 'A' Bench.

2.The Commissioner of Income Tax (Appeals)IX
121, Mahatma Gandhi Road, Chennai-34.

3.The Deputy Commissioner of Income Tax Range VI,
Chennai-34.

+1cc to Mr.Subbaraya Aiyar, Advocate Sr.86061

T.C.A.No.409 of 2011

ks[co]
srg 30/01/2019