IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM :

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

Tax Case Appeal No.471 OF 2011

The Commissioner of Income Tax,
Salary Range VI, Chennai.

...Appellant

-vs-

Sri S.A.Bhimaraja,
A1,Whispering Heights,
138, St.Mary's Road,
Alwarpet, Chennai - 18.

...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench, dated 13.05.2011 in ITA No.1167/Mds/2010, for the Assessment year 2007-08 as against the order of the Commissioner of Income Tax, (Appeals) VI, Chennai -34 made in ITA No.122/09-10, dated 22.06.2010 as against the order of the Joint Commissioner of Income Tax salary Range IV, Chennai for the Assessment Year 2007-08, dated 30.12.2009.

For Appellant : M/s.M.V.Pushpa

For Respondent : Mr.S.Sathiyanarayanan

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JUDGMENT

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

This Tax Case Appeal is filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench, dated 13.05.2011 in ITA No. 1167/Mds/2010, for the Assessment year 2007-08.

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2.Heard M/s.V.Pushpa, learned Counsel for the appellant and Mr.S.Sathiyanarayanan, learned Counsel for the Respondent.

3.This Appeal has been admitted on 28.10.2011, on the following Substantial Questions of Law:

> "(i)Whether on the facts and circumstances of the case, the Tribunal was right on deleting the addition of Rs.5 Lakhs when the assessee failed to prove through evidences?
>
> (ii)Whether on the facts and in the circumstances of the case, the order of the Tribunal is perverse since the order is contrary to the material facts?"

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 Questions of Law, framed for consideration, are 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.

mrm/abr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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2. The Commissioner of Income Tax(Appeals) VI,
   Chennai - 34.

3. The Joint Commissioner of Income Tax,
   Salary Range IV, Chennai - 34.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.83442

T.C.A.No.471 OF 2011

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