IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM :

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

Tax Case Appeal No.8 of 2011

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

-vs-

Letraco India, No.1B, Atkinson Palace,
2, Jothi Venkatachalam Road, Vepery,
Chennai - 600 007. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act') against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench, Chennai dated 06.08.2010 passed in ITA No.1486/Mds/2009, for the Assessment year 2004-05, against the order of the Commissioner of Income Tax (Appeal)-IX, Chennai-34, and made in I.T.A.No255/08-09, dated 18.06.2009, arrising from the Proceedings, of the Deputy Commissioner of Income Tax, Business Circle VI, Chennai-34, in PA No.AABFL4487H/2008/09, dated 26.06.2018.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel and
M/s.K.G.Usha Rani
Standing Counsel

For Respondent : No appearance

JUDGMENT

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

This Tax Case Appeal by the Revenue is filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'A' Bench, Chennai dated 06.08.2010 passed in ITA No.1486/Mds/2009, for the Assessment year 2004-05.

2.Heard Mr.T.R.Senthil Kumar & M/s.K.G.Usharani learned Senior Standing Counsel for the appellant/Revenue.

3.This Appeal has been admitted on 24.02.2011, on the following Substantial Questions of Law:

> "(i)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in deleting the penalty levied by the assessing Officer under Section 271(1)(c) of the Act is valid?
>
> (ii)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in deleting the penalty levied by the assessing Officer under Section 271(1)(c) of the Act, even though the addition was necessitated only because, the assessee could not satisfactorily explained the credit balances and but for the survey under Section 133A, the assessee would not have declared the additional income and the same would have remain concealed?"

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.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mrm

To

1. The Income Tax Appellate Tribunal 'A' Bench, Chennai.
2. The Commissioner of Income Tax -VII, Chennai.
3. The Commissioner of Income Tax (Appeals)IX, Chennai -34.
4. The Deputy Commissioner of Income Tax, Business Circle VI, Chennai - 34

T.C.A.No.8 of 2011

NRI(CO)
GMY(07/01/2019)