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.89 of 2011

The Commissioner of Income Tax,
Ward XIII(3), Chennai. ... Appellant

-vs-

Shri K.Gangaprasad ... 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 17.09.2010, passed in I.T.A.No.1044/Mds/2010 for the assessment year 2006-2007, against the order of the Commissioner of Income Tax (Appeals)-XII, Chennai made in ITA No.125/08-09, order dated 19.03.2010 for the assessment year 2006-07 and against the order of the Income Tax Officer, Ward XIII(2), Chennai, made in PAN/GIR No.AFBPG6221P, order dated 31/12/2008 for the assessment year 2006-2007.

For Appellant : M/s.R.Hemalatha
Senior Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar

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 17.09.2010, passed in I.T.A.No.1044/Mds/2010 for the assessment year 2006-2007.

2.Heard M/s.R.Hemalatha, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 14.03.2011, on the following substantial questions of law:-

"1.Whether on the facts and circumstances of the case, the Tribunal was justified in adopting 1981 as the base year for the purpose of adopting the cost of acquisition for working out the capital gains?

2.Whether on the facts and circumstances of the case, the Tribunal was justified in adopting Rs.1,00,000/- per ground as a fair market value as on 01.04.1981 in the absence of any other material to justify the same?

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 or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar(CO)

//True Copy//

cse Sub Assistant Registrar

To
1) The Income-tax Appellate Tribunal,
A Bench, Chennai.

2) The Commissioner of Income Tax (Appeals)-XII,
121, Mahatma Gandhi Road, Nungambakkam

3) The Income Tax Officer, Business Ward XIII(2),
Chennai - 34.
+one cc to M/s.M.Swaminathan, Advocate, SR No.80338

Tax Case (Appeal) No.89 of 2011

cp(co)
ssm(20/12/18)