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.91 of 2011

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

-vs-

Smt.Uma Rathi,
No.10,Badriah Garden Street,
Chennai - 600 003. ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'C' Bench, dated 19.08.2008 in ITA Nos.225 & 226/Mds/2008, for the Assessment years 2002-03 & 2003-04 as against the order of the Commissioner of Income Tax, Chennai dated 23.10.2007 in CIT(A)-IV/CHE/769;776/06-07 and as against the order of the Income Tax Officer, Business Ward-XII(3), Chennai-6, dated 30.12.2005 in AAFPR1880C.

For Appellant : Mrs.R.Hemalatha
learned senior standing counsel

For Respondent : Mr.M.P.Senthil Kumar

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 Madras 'C' Bench, dated 19.01.2008 in ITA Nos.225 & 226/Mds/2008, for the Assessment years 2002-03 & 2003-04.

2.Heard Mrs.R.Hemalatha, learned Senior Standing Counsel for the Revenue and Mr.M.P.Senthil Kumar, learned Counsel for the assessee.

3.This Appeal has been admitted on 10.03.2011, on the following Substantial Question of Law:

> "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law holding that the income offered by the assessee under the heading business income is to be treated as cash credit under Section 68 of the Income Tax Act, 1961?"

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

//True Copy//

Sub Assistant Registrar

mrm/abr

To
1. The Income Tax Appellate Tribunal, Madras 'C' Bench.

2. The Commissioner of Income Tax, Chennai.

3. The Income Tax Officer, Business Ward-XII(3), Chennai 600 006.

+1 cc to Mr.T.Ravi Kumar, Advocate Sr.No.83859
+1 cc to Mr.Philip George, Advocate Sr.No.84127

T.C.A.No.91 of 2011

SVI(CO)
CSL/03.01.2019