IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) Nos.518 and 519 of 2013

Commissioner of Income Tax,
Dindigul. ... Appellant in both the Appeals

-vs-

Dr.Geetha S.Abraham,
Paradise Compound,
Laws Ghat Road, Kodaikanal,
PAN : ABHPG2472Q. ... Respondent in both the Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'B' Bench, Chennai, dated 15.01.2013 in I.T.A.Nos.1532 and 1656/Mds/2010 for the assessment year 2005-06.

For Appellant (in both the Appeals)	: :	Mr.M.Swaminathan, Senior Standing Counsel and Ms.V.Pushpa, Junior Standing Counsel
For Respondent (in both the Appeals)	:	No Appearance

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COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals, by the appellant/Revenue, are directed against the common order passed by the Income Tax Appellate Tribunal 'B' Bench, Chennai, dated 15.01.2013 in I.T.A.Nos.1532 and 1656/Mds/2010 for the assessment year 2005-06.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeals have been admitted, on 05.11.2013, on the following substantial questions of law:-

> "(i) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee has raised additional construction during the year 1994-95 and 1995-96 in the absence of any material records produced by the assessee.
>
> (ii) Whether on the facts and circumstances of the case the Tribunal is right in upholding the order of the CIT(A) wherein the CIT(A) accepted the additional evidence which was not produced before the Assessing Officer without giving opportunity to the Assessing Officer.
>
> (iii) Whether in the facts and circumstances of the case the Income Tax Appellate Tribunal is right in upholding the order of CIT(A) wherein the CIT(A) accepted the additional construction of 5146 square feet claimed by the assessee for the computation of LTCG based on the letter issued by the Kodaikanal Municipality to Shri Dr.Sam Abraham, husband of the assessee and not in the

name of the assessee."

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax (Appeals) and we find that the tax effect in these appeals 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 these appeals in view of the low tax effect. Hence, the appeals are dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeals 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. No costs.

(T.S.S., J.) (V.B.S., J.)

02.11.2018

abr

To

The Income Tax Appellate Tribunal Chennai 'B' Bench.

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

(abr)

T.C.(A) Nos.518 and 519 of 2013

02.11.2018