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) No.98 of 2013

Commissioner of Income Tax,
Chennai III. ... Appellant

-vs-

Sanjay Tulsiyan,
No.602A, Kesava Dugar,
No.1, East Avenue,
Kesava Perumalpuram,
Chennai-600 028.
PAN: ABTPT8316J. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "D" Bench, dated 20.09.2012 in I.T.A.No.1396/Mds/2012, for the assessment year 2006-07.

For Appellant	:	Mr.T.R.Senthil Kumar, Senior Standing Counsel
	:	and M/s.K.G.Usha Rani, Junior Standing Counsel
For Respondent	:	No Appearance

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JUDGMENT

(Judgement of the Court was delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order of the Income Tax Appellate Tribunal Chennai "D" Bench, dated 20.09.2012 in I.T.A.No.1396/Mds/2012, for the assessment year 2006-07.

2.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and M/s.K.G.Usha Rani, learned Junior Standing Counsel for the Revenue.

3.This Appeal has been admitted on 06.03.2013, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that exchange of shares between brothers is not taxable, without considering the definition of Section 2(47) which includes exchange of assets amounts to transfer?"

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, this Tax Case 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 or to fall under the exceptional clauses mentioned in the Circular.

(T.S.S., J.) (V.B.S., J.)
02.11.2018

abr

To

The Income Tax Appellate Tribunal Chennai "D" Bench.

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

(abr)

T.C.(A).No.98 of 2013

02.11.2018