IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.8.2018

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE S.S.SUNDAR

Tax Case Appeal No.464 of 2018

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

Vs.

G.Jasoda .. Respondent/Appellant

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Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 07.10.2016 in ITA No.1225/Mds/2016 against the order of the Commissioner of Income Tax (Appeals) 5, Chennai 34 dated 15/3/2016 in ITA.No.II/CIT(A)-5/14-15 against the order of the Income Tax Officer, Business ward-X-(4) i/c, Chennai 6, dated 18/3/14 made in PAN.No.AAKPG6965E Assessment year 2011-12.

For Appellant : Mr.T.Ravi Kumar
Senior Standing Counsel (Income Tax)
Asst. by Mrs.R.Hemalatha

J U D G M E N T
(Delivered by the Hon'ble Acting Chief Justice)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras Madras 'B' Bench, Chennai, dated 07.10.2016 in ITA No.1225/Mds/2016, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition of Rs.69,91,866/- made on account of unexplained difference in stock of silver, especially when the assessee had furnished reconciliation statement admitting that there was a difference of 7.634 kgs of silver?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made by the AO as unaccounted investment for cash seized by the Revenue authorities amounting Rs.2,66,000/- in spite of the fact that the Assessee had in the statement given was not in a position to substantiate the same with the cogent evidence?

(iii) Whether the finding of the Tribunal is proper by deleting the difference in inventory amounting to Rs.256,096/- made on account of arithmetical calculation? and

(iv) Whether the reasoning and finding of the Tribunal is proper by holding that stock reconciliation statement furnished by the Assessee was correct especially when the return of income for the assessment year which was filed on 25.3.2011 after conducting of survey under Section 133A on 18.3.2011 had adopted higher quantity and value of the closing stock and without any evidence supporting for the same?"

2. The learned Standing Counsel appearing for the appellant produced a Circular No.3/2018 dated 11.7.2018. The crux of the circular is that the Department shall not file tax appeals if the monetary limit is within fifty lakhs. Since the subject matter of the appeal does not satisfy the norms, the learned counsel fairly concedes that the appeal need not be entertained.

3. In view of the above, this appeal is dismissed. However, the substantial questions of law raised in this appeal still survives for the Department to raise in appropriate case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kpl

To

1.The Registrar, Income Tax Appellate Tribunal,
Madras B Bench

2.The Income Tax Officer,
Business Ward X(4),
I/c III Floor, Kannammai Building, 611, Annasalai
Chennai 6

3.The Commissioner of Income Tax(Appeals)-5
Room No.214, II Floor, Mahatma Gandhi Road,
Nungambakkam, Chennai 34.

+2cc to MR.T.Ravikumar, Advocate SR.No.56261, 55171

PVS(CO)
sm:17.9.2018

T.C.A.No.464 of 2018.