IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.8.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal Nos.505 & 506 of 2018

Principal Commissioner of Income Tax Central 1
No.108, Mahatma Gandhi Road
Chennai. .. Appellant in both TCAs.

Vs.

J.Karthikeyan .. Respondent in both TCAs.

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 16.11.2017 in ITA Nos.904/Mds/2017 and 905/Mds/2017 respectively against the order of Income Tax Appellate Tribunal 'D' Bench Chennai dated 16.11.2017 in ITA.Noss.899,900,901,902,903,904,905/mds/2017 and against the order of Commissioner of Income Tax (Appeals) 18, Chennai 34 dated 5.1.2017 in ITA.No.869 to 870/15-16 and ITA.864 to 868/15-16 and arising out of the assessment order of Asst. Commissioner of Income Tax, Central circle -1(1) Chennai dated 31.3.2015 in pan No.AANPK9511D.

For Appellant : Mr.T.R.Senthil Kumar
Standing Counsel (in both cases)

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

This Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras Madras 'D' Bench, Chennai, dated 16.11.2017 in ITA Nos.904/Mds/2017 and 905/Mds/2017 respectively, by raising the following substantial questions of law:

"(i) Whether the Appellate Tribunal is justified in cancelling the penalty when the assessee has not complied with the conditions laid down in sub-section 2(ii) of Section 271AAA of the Income Tax Act without ascertaining the fact that the assessee has not paid total tax, together with interest, on the undisclosed income? and

(ii) Whether the Appellate Tribunal is justified in cancelling the penalty when the assessee has not complied with the conditions laid down in sub-section 2(iii) of Section 271AAA of the Act, without ascertaining the fact that the assessee has not explained the manner of earning of undisclosed income with evidence in substantial manner?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeals are dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

Sd/--
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal
'D' Bench, Chennai.

2.The Commissioner of Income Tax Appeals(18)
Chennai 34

3.The Assistant Commissioner of Income Tax
Central Cricle -1(1),
Chennai

4.The Assistant Registrar
Income Tax Appellate Tribunal,
III Floor Rajaji Bhavan,
Basent Nagar, Chennai-90

5.The Principal Commissioner of Income Tax Central I
No.108, Mahatma Gandhi Road, Chennai

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.NO.56661

GMR(CO)
sm:18.9.2018