IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

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

Tax Case Appeal No.559 of 2018

The Commissioner of Income Tax
Chennai. .. Appellant

Vs.

Hemendra Devendra Shah
No.14, First Avenue,
Harrington Road, Chetpet,
Chennai 600 031. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 23.03.2017 in I.T.A. No.3261/MDS/2016 and against the Commissioner of Income Tax (Appeals)-4, Chennai 34 and made in I.T.A.No.21/2015-16/A.Y.2012-13/CIT(A)-4 dated 19.10.2016 and PAN No.AMZPS6457N and against the Income Tax Officer, Non-Corporate ward 3(4) Chennai 34 and made in AMZPS6457N/NCW 3(4)/2014-15 dated 12.03.2015 and PAN No.AMZPS6457N

For Appellant : Mr.T.Ravi Kumar
Senior Standing Counsel

For Respondent : No Appearance

J U D G M E N T

(Delivered by Huluvadi G.Ramesh,J.)

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, 'B' Bench, Chennai, dated 23.03.2017 in ITA No.3261/MDS/2016, by raising the following substantial questions of law:

"(i) Whether the Tribunal was right in deleting the long term capital gain amounting to Rs.1,96,56,014/- on the ground that they were exempt being agricultural land, especially when the State Registration Department has classified the said lands as residential area - clause 1 and therefore could not agricultural lands?

(ii) Whether the Tribunal was correct in granting relief to the Assessee by treating the land as agricultural land especially when the letter of the concerned Tahsildar dated January, 2015 clearly indicated that no agricultural activities were carried out in the said land during that period and that in the Chitta and Adangal extract furnished indicated only the name in the Patta and that in the columns, nature of crop and area of crop were left blank as on 20.04.2012?

(iii) Whether the Tribunal was right in overlooking the fact that the assessee has failed to furnish during the assessment proceedings before the Assessing Officer any documentary evidence to substantiate the fact casuarinas trees were planted in the earlier years, which could fetch income during the relevant year especially when no agricultural activities were carried on by the Assessee from the date of possession in 1985 onwards?"

2. When the matter is taken up for admission, the learned Standing Counsel for the Appellant brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.07.2018, 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 Appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

(aeb)

To

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

2. The Commissioner of Income Tax(Appeals)-4,
   Chennai 34.

3. The Income Tax Officer,
   Non-Corporate ward 3(4),
   Chennai.

+1 cc Mr.T.Ravikumar, Advocate Sr.No.58431

T.C.A.No.559 of 2018

RR(CO)
CSL/06.12.2018