IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM

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

Tax Case Appeal No.578 of 2018

Commissioner of Income Tax
Non-Corporate Circle 13(1),
Chennai. .. Appellant

Vs.

S.Mainraj .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 28.02.2018 in ITA No.2133/MDS/2017.

Against the order dated 14/06/2017 made in P.A.No.AGPPM1877 obn the fiel of the commissioner of Income Tax(A)-14, Chennai.

Against the order of the Assistant Commissioner of Income Tax, Non-Corporate Circle -13(1), Chennai, dated 31/03/2016 made in AGPPM18773.

For Appellant : Mr.S.Premalatha for Mr.M.Swaminathan

For Respondent : Ms.V.Pushpa, for Mr.M.Swaminathan

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, 'D' Bench, Chennai, dated 28.02.2018 in ITA No.2133/MDS/2017, by raising the following substantial questions of law:

> "(i) Whether the ITAT was right and justified in concluding that assessee followed cash system of accounting which is contrary to

the audit report in Form 3CD where the method followed by assessee as mercantile system?

(ii) Whether the ITAT erred in holding that sum of Rs.58,08,352/- received by the assessee during the previous year is towards advance for sale of land even though details of sale deed numbers and date of execution of sale deed were clearly mentioned in the assessment order as per which sum of Rs.2,26,43,128/- represents sale proceeds during the year and not Rs.1,68,34,776/- disclosed as per sale proceeds?

(iii) Whether Income Tax Appellate Tribunal was justified in not adjudicating the ground relating to disallowance of development expenses for want of evidence, even though a specific ground was raised before it?

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-IV)

//True copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax
(Appeals)-14, Chennai.

3. The Assistant Commissioner of Income Tax
Non-Corporate Circle-13(i) chennai.

T.C.A.No.578 of 2018

GMY(18/09/2018)