IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal No.174 of 2018

The Commissioner of Income tax Circle,
Tuticorin. ... Appellant/Appellant

-vs-

Shri.T.Johnson ... Respondent/Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, Chennai, dated 06.09.2017 made in ITA No.969/MDS/2017, preferred against the order dated 04/01/2017 made in T.A.NO.0075/2016-17 on the file of the Commissioner of Income Tax(Appeal)-1, Madurai, filed against the order dated 23/02/2016 passed by the Deputy Commissioner of Income Tax, Circle-Tuticorin for the assessment year 2013-14.

For Appellant :: Mr.M.Swaminathan
Standing Counsel

For Respondent :: M/s.Subharaya Aiyar Padmanabhan

JUDGMENT

(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, Chennai 'A' Bench, Chennai, dated 06.09.2017 made in ITA No.969/MDS/2017, and the same was admitted by this Court on 10.04.2018, on the following substantial questions of law:

"(i)Whether disallowance under Section 14A of the Income Tax Act, 1961 could be made when there was no exempt income claimed by the assessee?

(ii)Whether the judgment of the jurisdictional High Court in Redington India Ltd. v. Additional Commissioner of Income Tax, reported in (2016) 97

CCH 0219 would apply for assessment of the year 2013-2014, after the amendment of Section 14A and the amendment of the Income Tax Rules, 1962, in view of the judgment of the Supreme Court in Maxopp Investment Ltd. v. Commissioner of Income Tax, New Delhi, reported in (2018) 91 taxmann.com 154 (SC)."

2.When the matter is taken up for admission, the learned Standing Counsel appearing 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. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Assessment Registrar,
The Income Tax Appellate Tribunal, Chennai A Bench, Chennai.

2.The Commissioner of Income Tax(Appeal)I,
Madurai.

3.The Deputy Commissioner of Income Tax Circle I, Tuticorin.

4.The Commissioner of Income Tax Circle,
Titicorin.

+1cc to Mr.M.Swaminathan, Advocate sr.no.75150
+1cc to M/s.Subbaraya Aiyar, Advocate sr.no.76175

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nr 03/12/2018