IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM

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

Tax Case Appeal No.565 of 2018

Principal Commissioner of Income Tax 6,
No.121, Nungambakkam High Road
Chennai 600 034. .. Appellant/Respondent

Vs.

Mrs.Raji Raju .. Respondent/Appellant

Prayer: Tax Case Appeal is filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 16.11.2017, made in ITA No.2116/Mds/2017, and against the order of the Commissioner of Income Tax (Appeals)-15, Chennai 34, dated 23.06.2017 made in I.T.A.No.274/CIT(A)-15/14-15/Assessment Year 2009-10, for the Assessment Year 2009-10, and against the order of the Assistant Commissioner of Income Tax, Chennai-34 dated 25.06.2014, made in PAN.AEMPR9399M, for the Assessment Year 2009-10.

For Appellant : Mr.T.R.Senthil Kumar,
Standing Counsel

For respondent : Mr.A.S.Sriram for Mr.S.Sridhar

JUDGMENT
(Judgment of the Court was 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, Madras 'B' Bench, Chennai, dated 16.11.2017, made in ITA No.2116/Mds/2017, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the ITAT was correct in holding that the payments made for Portfolio Management Service is allowable as deduction under Long Term Capital/Short Term Capital Gains, when such expenditure was not incurred in connection with the transfer of shares ? and

(ii) Whether on the facts and circumstances of the case, the ITAT was correct in holding, exemption u/s 80 G was allowable as deduction?"

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, this 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

dixit

To

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

2. The Principal Commissioner of Income Tax-6,
121, Nungambakkam High Road, Chennai-34.

3. The Commissioner of Income Tax(Appeal)-15,
Chennai-34.

4. The Assistant Commissioner of Income Tax,
Chennai-34.

+1 cc to Mr.T.R.Senthilkumar, standing counsel for Income Tax,
Sr.No.71435

TCA No.565 OF 2018

MR(CO)
CSL/10.12.2018