IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM

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

Tax Case Appeal No.712 of 2018

The Commissioner of Income Tax
Chennai. .. Appellant

Vs.

Justice T.S.Arunachalam
New No.56/1, Veerabadran street
Nungambakkam
Chennai-600 034.
PAN:AAHPA8574C .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 30.01.2018 in ITA No.2455/Mds/2017. Against the order of the Commissioner of Income Tax (Appeals)-4, in ITA No.180/16-17/A.Y 2014-15 dated 21/07/2017 and arising out of the assessment of the Assistant Commissioner of Income Tax-Non Corporate Circle-3 Chennai in PAN No.AAHPA8574C dated 29/12/2016.

For Appellant : Ms.Hemalatha
Standing Counsel

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, Madras 'A' Bench, Chennai, dated 30.01.2018 in ITA No.2455/Mds/2017, by raising the following substantial questions of law:

"(i) Whether the Tribunal was right in allowing deduction under Section 54 of the I.T.Act even on the balance amount of sale consideration which was neither utilized for reinvestment in property nor put into a capital gain account scheme as prescribed under Section 54(2) holding that it was only a small technical breach which should not disentitled the Assessee for the benefit of deduction under Section 54 of the Income Tax Act?

(ii) Whether the disallowance under Section 54 (2) of the Act cannot be made for not depositing the balance sale proceeds into a capital gains scheme account within the stipulated period under Section 139(1) and would not disentitle the Assessee from claiming the benefit even in cases wherein the condition imposed by the statute had not complied with?

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 11.07.2018 wherein it is stipulated that appeal 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-II)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Office of the Commissioner of Income Tax(Appeals)4,
Room No.229, 2nd Floor, Main Building,
Income Tax Office,
121,Mahatma Gandhi Road, Chennai-34.

3. The Assistant Commissioner of Income Tax,
Non Corporate Circle-3,
Chennai.

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

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 66004

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RSV(CO)
CSL/17.10.2018