IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.504 of 2014

Commissioner of Income-tax,
Chennai. ... Appellant

-vs-

Dr.C.Nagarajan,
No.84, New No.141, Peters Road,
Royapettah, Chennai-600 014. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "D" Bench, dated 16.04.2013 in I.T.A.No.200/Mds/2013, for the assessment year 2008-09.

Against the order of the Commissioner of Income Tax (Appeals)IX, Chennai 34, order dated 31.10.2012 in ITA No.103/10-11 for the Assessment Year 2008-09 and against the order of the Assistant Commissioner of Income Tax Business Circle IX, Chennai, order dated 28.12.2010 in PAN/GIRNO.ABGPR6878J for the Assessment Year 2008-09.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
and Ms.V.Pushpa,
Junior Standing Counsel

For Respondent : No Appearance

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order dated 16.04.2013, passed by the Income Tax Appellate Tribunal Chennai "D" Bench, in I.T.A.No.200/Mds/2013 for the assessment year 2008-09.

2.Heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Junior Standing Counsel for the Revenue.

3.The above appeal has been admitted on 13.08.2014, on the following substantial questions of law:-

> "(i) Whether the Tribunal was justified in accepting the assessee's plea overlooking the provisions of Section 69-C of the Income Tax Act in relation to the transaction for the year 2008-09 in a case of unexplained expenditure supported by spot enquiry report, which showed that payments made were not found to be genuine.
>
> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in deciding the appeal of the appellant on the basis of events in the subsequent assessment year, particularly when the principle of res judicata is not applicable to income tax proceedings and each assessment year is separate and distinct.
>
> (iii) Whether on the facts and circumstances of the case, the Tribunal was correct in dismissing the appellant's appeal without considering the well settled position of law that an assessment for a particular year is final and conclusive between the parties only in relation to that year and decisions given in an assessment for a particular year are not binding on either the appellant of the defendant in a subsequent year."

4.We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this appeal in view of the low tax effect. Hence, this appeal is dismissed and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(abr)

To

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

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

3. The Assistant Commissioner of Income Tax Business circle IX,
   Chennai.

+1 cc to Mr.M.Swaminathan, Advocate Sr.No.76144

T.C.A.No.504 of 2014

RV(CO)
CSL/18.12.2018