IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case(A) No.1472 of 2007

Commissioner of Income Tax, Central,
Chennai. ... Appellant /Respondent

Vs.

Dr.S.Dhanabagyam,
31, Water Tank Road,
Erode. ... Respondent /Appellant

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 28.02.2007 made in ITA No.IT ss A 183/Mds/2005. Against the Order of Commissioner of Income Tax (Appeals) II, Coimbatore dated 30/09/2005 and made in ITA.No. 157-C/04-05 against the order of Assistant Commissioner of Income Tax, Central Circle IV, Coimbatore, dated 26/04/2004 and made in PAN.AFQPD0510D for the Assessment Year 1996-97 to 2002-03.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
Assisted by Ms.K.G.Usharani

For Respondent : Mr.A.S.Sriraman

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'D' Bench by raising the following substantial questions of law:

"(i) Whether, in the facts and circumstances of the case, the Tribunal was right in deleting the addition made on account of on money payment towards purchase of land which was admitted by the assessee during the search.

(ii) Whether, in the facts and circumstances of the case, the Tribunal was right in deleting the addition made on account of on money payment towards purchase of land, when on enquiry by the investigation wing, 91 persons denied the payment towards the share application monies, as against the claim of the assess that the said share application monies were utilized for purchase of the land.?"

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 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 said to be less than the monetary limit imposed and therefore, the Tax Case filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax (Appeals) -II,
coimbatore.

3.The Assistant Commissioner of Income Tax,
Central Circle IV, Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.2617

T.C (A)No.1472 of 2007

GJ(CO)
GN(26/02/2019)