IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No. 1186 of 2009

The Commissioner of Income Tax
Circle IV, Chennai. ... Appellant/Appellant

Vs.

Mrs.N.Meenakshi ... Respondent/Respondent

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 13.02.2009 made in ITA No. 508/Mds/2008, against the order of Commissioner of Income Tax (Appeals)-VIII Chennai dated 31/12/2007 in ITA No.4/07-08 against the order of the Additional Commissioner of Income Tax Range IV (I/C) Chennai, dated 20/3/2017 in PAN AHAPM2232M against the Assessment order dated 31/03/14 of Additional Commissioner of Income Tax, Range III, Chennai for the Assessment Year 2004-05.

For Appellant : Mr. T.Senthilkumar
Sr. Standing Counsel

J U D G M E N T

(Delivered by DR.VINEET KOTHARI, 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, by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in dismissing the appeal on the ground that the penalty is not sustainble ignoring the decision of the Apex Court in 306 Income Tax Return 277?;

(ii) Whether on the facts and circumstances of the case, the Tribunal was right in dismissing the appeal contrary to the decision of the Apex Court, 251 Income Tax Return 99-SC, that after the introduction of explanation to Sec. 271, there is no question of proving mensrea?".

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 said to be less than the monetary limit imposed and therefore, the appeal 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(CS II)

//True Copy//

Sub Assistant Registrar

vsg
To

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

2.The Commissioner of Income Tax, (Appeals)-VIII,
Main Building 2nd Floor,
121, Mahatma Gandhi Road, Chennai-34.

3.The Additional Commissioner of Income Tax,
Range IV (I/C),Chennai-34.

4.The Additional Commissioner of Income Taxes
Range III, Chennai-34.

+1cc to Mr.T.R.Senthilkumar, Advocate Sr.9922

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gj[co]
srg 28/02/2019