IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM

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

Tax Case Appeal No.1330 of 2009

Commissioner of Income Tax
Central III
Chennai. .. Appellant /Appellant

Vs.

M/s. Vel Trust
Shanti Sudha
Old No. 24, New No. 38, ABM Avenue
Chennai - 600 028. .. Respondent/Respondent

Prayer:-

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 08.05.2009 made in ITA No.1695/Mds/2008.

Against the order of the Commissioner of Income Tax (Appeals)VI, Chennai-34, made in ITA.No.158/06-07 dated 29.02.2008 agaisnt the order of the Assistant Commissioner of Income Tax, Circle-II, Chennai-600 034 made in PAN.No.AAATV4164A dated 19.09.2006 for the Assessment Year 2001-02.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel
For Respondent : Mr.G.Baskar
Assisted by Sai Lakshmi Valli

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 question of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the development fee collected as part of the fee from the students constituted capital receipts and did not have the character of income on the basis of the assessee's claim that such development fees were used for meeting capital expenditure?"

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 question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Income Tax Appellate Tribunal,
   Madras 'B' Bench, Chennai.

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

3. The Assistant Commissioner of Income Tax,
   Circle-II, Chennai-600 034.

+1cc to Mr.G.Baskar, Advocate, S.R.No.38421
+1cc to Mr.J.Narayanasamy, Advocate, S.R.No.38121

TCA.No.1330 of 2009

NMI(CO)
CS/16/07/2019