IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM

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

Tax Case (Appeal) Nos.1331 to 1333 of 2009

Commissioner of Income Tax
Trichy II, Trichy.
.... Appellant in the above T.C.(A)s

Vs.

Shri K.Sampath
.... Respondent in the above T.C.(A)s

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 17.10.2008 made in IT (SS)A.Nos.1, 2 and 9/Mds/2008 for the block Assessment period 1990-91 to 2000-01 and against the order of the Commissioner of INcome Tax (Appeals) Tiruchirapalli, dated 11.10.2007 made in ITA No.498/06-07, ITA No.185/01-02, and the Assistant Commissioner of Income Tax Company Circle-I, Tiruchirapalli dated 29.12.2008, made in PAN/GIR No.AAUPS8843Q, and against the order of the Assistant Commissioner of Income Tax Company Circle - I, Tiruchirapalli, dated 31.10.2001 made in PAN/GIR.No.168-S/INS-II,/TRY.

For Appellant : Mr.M.Swaminathan
Sr.Standing Counsel
assisted by Ms.Premalatha

For Respondent : Mr.A.S.Sriraman
for Mr.S.Sridhar

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

This Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the

Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 17.10.2008 made in IT(SS)A.Nos.1, 2 and 9/Mds/2008 for the block Assessment period 1990-91 to 2000-01.

2. The above appeals have been admitted on 07.12.2009 on the following substantial question of law :

"Whether in the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that income by way of business profits out of development and sale of land and disallowance of commission have to be examined only in the hands of the firm M/s.Southern Construction Enterprises and not in the hands of the assessee disregarding all relevant evidence and relying on irrelevant material?"

3. When the matters are 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.

4. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue are dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case. No costs.

sl

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax (Appeals),
Tiruchirapalli.

3. The Assistant Commissioner of
Income Tax, Company Circle I,
Tiruchirapalli.

4. The Commissioner of Income Tax-II,
Trichy.

+1cc to M/s.S.Premalatha, Advocate, S.R.No.5862
+1cc to Mr.S.Sridhar, Advocate, S.R.No.6890

Tax Case (Appeal) Nos.1331 to1333 of 2009

BR(CO)
kak(11/03/2019)