IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.1.2019

CORAM

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

Tax Case Appeal No.1385 of 2009

The Commissioner of Income Tax
Coimbatore. Appellant

Vs.

Dr.K.Geetha Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 11.1.2008 made in IT (SS) A No.8/Mds/2005.

Against the O/o Commissioner of Income Tax Appeals II, Coimbatore, dated 20.10.2004 and made in I.T.Appeal No. 156-C/03-04 and against the O/o the Assistant commissioner of Income Tax Central Circle -IV, Coimbatore Dated 02/06/2003 and made in PAN.No. G.702 for the Assessment Year 1996-97 to 2002-03.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For Respondent : Mrs.A.S.Sriraman,
in S.Sridhar

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, 'D' Bench, Chennai, dated 11.1.2008 made in IT(SS) A No.8/Mds/2005, by raising the following substantial questions of law:

"(i) Whether in the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in entertaining the issue relating to the non-issuance of warrant under Section 132 for the first time, when the assessee has participated in the Block Assessment proceedings and had not raised the said issue before the Commissioner of Income Tax (Appeals)?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made towards on money paid for the purchase of land, even though this was proved statement recorded under Section 132(4) of the Income Tax Act, 1961?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made relating to the unexplained credit of Rs.1.5 lakhs without taking into consideration the credit worthiness of the lenders?

(iv) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the Surcharge under Section 113 is not leviable on the ground that in the search in this case was held prior to 1.6.2002?"

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

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax(Appeals)-II,
   Coimbatore.

2. Income Tax Appellate Tribunal,
   Madras 'D' Bench,
   Chennai,

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

+1cc to Mr.S.Sridhar, Advocate, S.R.No. 3481

TCA No.1385 of 2009

RR(CO)
GN(25/02/2019)