IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.2.2019

CORAM

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

Tax Case Nos.802 to 805 of 2008

Commissioner of Income Tax
Chennai ... Appellant in all the four cases

Vs.

Shri.Gouthamchand ... Respondent in TC 802/2008

Shri.P.Vinod ... Respondent in TC 803/2008

Shri.Pyarelal Jain ... Respondent in TC 804/2008

Smt.P.Sakuntala ... Respondent in TC 805/2008

Tax Cases filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 31.5.2007 made in ITA Nos.1553/Mds/99, 1554/Mds/99, 1555/Mds/99 & 1556/Mds/99, preferred against the order of the Commissioner of Income Tax (Appeals)-IV), Chennai in ITA No.21/99-2000/IV(1)(Inv.), ITA No.18/99-2000/IV(1)(Inv.), ITA No.19/99-2000/IV(1)(Inv.), ITA No.20/99-2000/IV(1)(Inv.), dated 02.08.1999 respectively filed against the Assessment order dated 26.03.1999 and 23.03.1999 for the Assessment year 1994-95 on the file of the Assistant Commissioner of Income Tax, City Cir,IV(1)(Inv), Chennai 6.

For Appellant in all cases : Mr.T.R.Senthilkumar, Senior Standing Counsel

For respondent in all cases : Ms.E.Malini for M/s.Pass Associates

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Cases have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 31.5.2007 made in

ITA Nos.1553/Mds/99, 1554/Mds/99, 1555/Mds/99 & 1556/Mds/99, by raising the following substantial questions of law:

> "(i) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the re-opening of the assessment was bad in law on the ground that there was no fresh material, even though the order of the Commissioner of Income Tax (Appeals) in the case of the seller came after the original assessment was completed, and constituted fresh material?
>
> (ii) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the on money assessed in the hands of the seller towards capital gains cannot be treated as having been paid by the buyer?"

2. 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.

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Tax Cases filed by the Revenue are dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax
   Chennai

2. The Assistant Registrar,
   Income Tax Appellate Tribunal,
   Madras 'B' Bench, Chennai

3. The Assistant Commissioner of
     Income Tax,
   City Circle IV(1)(Inv.) Chennai 600 006.

4. The Commissioner of INcome Tax (Appeals)-IV
   Chennai.

+1 cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.14683

Tax Case Nos.802 to 805 of 2008

RSI(CO)
SSM(26/03/2019)