IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.3.2019

CORAM

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

Tax Case Appeal No.510 of 2009

Commissioner of Income Tax
Salem ... Appellant

Vs.

V.Pattabhiraman ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 29.8.2003 made in ITA No.138/Mds/2001. Against the order of the Commissioner of Income Tax(Appeals)-XII, Chennai-34, dated 27.09.2000 agains the order of the Deputy Commissioner of Income Tax, Special Investigation Circle, Salem District 31.03.2000.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Mr.V.S.Jayakumar

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, 'A' Bench, Chennai, dated 29.8.2003 made in ITA No.138/Mds/2001, by raising the following substantial questions 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 Assessing Officer was not correct in invoking Sections 69 and 69A of the Income Tax Act 1961 in the hands of the persons in whose names the monies stood invested on the ground that some members of the public have claimed monies as belonging to them and that too in the absence of

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any corroborative evidence?

ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that income, if any, on the unexplained investments should be considered in the hands of the firm especially when it has been found that the firm itself was not genuine and in the absence of any evidence to show that the deposits belonged to such a firm?"

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 VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax
Salem

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

3. The Deputy Commissioner of
Income Tax, Special Inv. Cle.
Salem.

+1cc to Mr.V.S.Jayakumar, Advocate, S.R.No.25936

TCA No.510 of 2009

PPA(CO)
CS/08/05/2019

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