IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

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

Tax Case Appeal Nos.721 to 724 of 2009

The Commissioner of Income Tax,
Tiruchirapalli. ... Appellant in all TCA

Vs.

Shri N.Sundararaman ... Respondent in all TCAs.

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 22.09.2006 made in I.T.A.Nos.348 to 351/Mds./2006, respectively, in respect of Assessment Years 1999-2000, 2000-01, 2001-02 and 2002-03,

against the Common Order dated 08/11/2005 by the Commissioner of Income Tax (Appeals), Tiruchirappalli for the Assessment Years 1999-2000 to 2002-03 against the Assessment order dated 29/03/2005 by the Assistant Commissioner of Income Tax, Company Circle-I, Trichy for the Assessment Years, 1999-2000, 2000-01, 2001-02, 2002-03 respectively.

For Appellant : Mr.M.Swaminathan
Standing Counsel, assisted by
Mrs.S.Premalatha, Jr.Stdg. Counsel

For Respondent : Mr.M.P.Senthil Kumar

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, dated 22.09.2006 in I.T.A.Nos.348 to 351/Mds./2006, by raising the following substantial question of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in holding that the assessee was entitled to claim the status of 'resident but not ordinary resident' and computation of tax was to be paid under Section 115 E of the Income Tax Act ?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in law in holding that the assessee was entitled to concessional rate of tax and not to be taxed at the normal rates, especially in the absence of filing of any declaration under Section 115H along with the return under Section 13 of the Income Tax Act ?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal was right in holding that the benefits of Chapter XII-A (Section 115H read with Section 115E) are to be given to the assessee for the assessment years 1999-2000 to 2002-2003 ?"

2. When the matter is taken up for hearing, 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 appeals 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 VI)

//True Copy//

Sub Assistant Registrar

To

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

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

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

+1cc to Mr.M.Swaminathan, Advocate Sr.21432

TCA Nos.721 to 724 of 2009

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srg 10/04/2019