IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM

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

Tax Case Appeal No.929 of 2009

Commissioner of Income Tax,
Madurai. ... Appellant

Vs.

M/s.Subbiah Jewellers ... Respondent

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench, dated 06.02.2009, made in ITA No.1406/Mds/2006 against the order dated 25/01/2006 made by the Commissioner of Income Tax (Appeals)-II, Madurai against PAN/GIR No.ABAFS7061E against the order dated 26.09.2005 by the Income Tax Officer, Ward I(4), Tirunelveli.

For Appellant : Ms.Premalatha, Standing Counsel.

For Respondent : No appearance

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, Chennai 'D' Bench, dated 06.02.2009, in ITA No.1406/Mds/2006, by raising the following substantial questions of law :

"(1) Whether on the facts and circumstances of the case, the Tribunal was right in deleting the penalty on the ground that the discrepancy does not relate to the assessment year 2002-03, when the income relating to the same has been assessed in the course of regular assessment for assessment year 2002-03, and assessee has accepted the same ?

(2) Whether on the facts and circumstances of the case, the Tribunal was right in deciding the year of assessment in a penalty appeal, when the quantum has become final ?

2. When the matter is taken up for hearing, the learned Standing Counsel for the Department 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.50.00 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 appropriate cases. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dixit

To

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

2) The Commissioner of Income Tax (Appeals)-II,
Madurai

3) The Income Tax Officer, Ward I(4),
Tirunelveli.

+1 cc to Mr.M.Swaminathan, Advocate, S.R.No.7980

TCA No.929 OF 2009

CNJ(CO)
SSM(11/03/2019).