IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.1.2019

CORAM

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

Tax Case Appeal No.995 of 2009

The Commissioner of Income Tax
Circle III, Chennai. ...Appellant

Vs.

M/s.Chandiya Chemicals,
4/349, Old Mahabalipuram Road,
Oggiyam Thuraipakkam, Chennai-96. ...Respondent

Prayer:- 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 21.11.2008 made in ITA No.274/Mds/2008 preferred against the order of the Commissioner of Income Tax (Appeals) VIII, Chennai made in ITA.018/2005-06, dated 27.11.07 preferred against the order of the Assistant Commissioner of Income Tax Officer, Circle III, Chennai dated 17.03.05 for the Assessment Year 2002-03 made in PAN:AAAFC1895K.

For Appellant : Mr.T.R.Senthilkumar
Senior 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, 'A' Bench, Chennai, dated 21.11.2008 made in ITA No.274/Mds/2008, by raising the following substantial question of law:

"When a partner in the assessee firm is also a partner in the sister concern which receive commission year after year, attracts section 40A(2), (b) of the Income Tax Act or not?"

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 question of law for determination in an appropriate case.

ssk.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To
1. The Commissioner of Income Tax (Appeals)VIII
Circle III, Chennai.

2. M/s.Chandiya Chemicals,
4/349, Old Mahabalipuram Road,
Oggiyam Thuraipakkam, Chennai-96.

3. The Assistant Commissioner of Income Tax,
Circle III, Chennai 34.

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

+1cc to Mr.T.R.Senthil Kumar, Advocate, Vide SR.NO.2947/19

TCA No.995 of 2009

ssv(co)
kak(01/03/2019)