IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.1.2019

CORAM

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

Tax Case Appeal No.1417 of 2010

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

Vs.

Sri C.Aryamasundaram ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 6.8.2010 made in ITA No.731/Mds/2009 against the Order of the commissioner of Income Tax appeals - VIII, Chennai-34, dated 11/03/2009 in ITA.No. 11/06-07 for the assessment year 1998-99, against the order of the Assistant Commissioner of Income Tax Business Circle III, Chennai-34, dated 31/03/2006 in GIR/PAN.No. AJYPS1233N for the assessment Year 1998-99.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For respondent : Ms.Maya Nichane

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, 'B' Bench, Chennai, dated 6.8.2010 made in ITA No.731/Mds/2009, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case the Appellate Tribunal was right in holding the issue of notice under Section 143(2) as invalid without considering the amended provision of Section 148(1) introduced with retrospective effect from 1.4.1991?"

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.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk.

To.

1. The Commissioner of Income Tax
   Circle III, Chennai

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

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

4.The Commissioner of Income Tax Appeals VIII,
  Chennai-34.

+1cc to Mr.S.Premalatha, Advocate, S.R.No. 2587

TCA No.1417 of 2010

SSI(CO)
GN(14/02/2019)