IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.1440 of 2010

The Commissioner of Income Tax,
Ward XIV(2), Chennai. ... Appellant

Vs.

Stanley Gonsalvez ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai dated 06.08.2010 made in ITA No.732/Mds/2010.

In the Income Tax Appellate Tribunal "B"Bench Chennai dated 06/08/2010 made in ITA.No. 732/MDS/2010 year 2005-06 against the Commissioner of Income Tax Chennai X, C.No. 10113/10/CIT/X/2009-10 dated 16/03/2010 A/C .No. AAGPG9235K Asst Year 2005-2006.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel
assisted by Ms.Premalatha,
Standing Counsel

For Respondent : Mr.M.P.Senthilkumar

JUDGMENT
(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 06.08.2010 made in ITA No.732/Mds/2010, by raising the following substantial questions of law:

"(a)Whether on the facts and circumstances of the case, the Tribunal was right in deciding that Sec.44AD not applicable to the assessee?

(b)Whether on the facts and circumstances of the case, the Tribunal was right in deciding that the CIT(A) had invoked the revisional jurisdiction without backing in law?

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. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Income Tax Appellate Tribunal, 'B' Bench, Chennai

2.The Income Tax Officer,
Ward XIV (2),
Chennai 600 034.

3.The Commissioner of Income Tax,
Chennai X,
121, MG Road, Nungambakkam,
Chennai 600 034.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 23953
+1cc to Mr.Philip George, Advocate, S.R.No. 23980

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VSN II(CO)
GN(05/04/2019)