IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 05.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.189 of 2010

Commissioner of Income Tax,
Central II,
Chennai. ... Appellant

Vs.

Shri M.Rameshchand ... Respondent

Appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 31.07.2009, made in IT(SS) A.No.213/Mds/2006 against the order of the Commissioner of Income Tax Appeals II Chennai dated 06.09.2006 in Appeal No CIT ACHE/23/04-05 in the assessment year Block Assessment for the period 97-98 to 2002-03 and part period of 2003-04.

Against the order of the Assistant Commissioner of Income Tax Central Circle II(5) Chennai dated 28.02.2005 in the assessment year AY 97-98 to 2002-03 and part period of 2004-05 in PA No.GIR No.AAFPR8510B.

For Appellant : Mr.T.R.Senthilkumar,
Senior Standing Counsel,
assisted by Mrs.K.G.Usharani

For Respondent : Mr.A.S.Sivaraman,
for Mr.S.Sridhar.

J U D G M E N T
(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 'C' Bench, dated 31.07.2009, in IT(SS)A. No.213/Mds/2006, by raising the following substantial questions of law :

> " (1) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that out of the 18814 gms of gold jewellery found at the time of search, 16378 gms represented purchase from M/s.Laxmi Agency and only 2076 gms was unaccounted, without considering the facts elaborately discussed in the assessment order wherein it has been clearly shown that the assessee's claim of purchase of gold jewellery from M/s.Laxmi Jewellery was clearly an afterthought ?
>
> (2) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee's claim of purchase of gold jewellery from M/s.Laxmi Jewellery was genuine, solely based on the order of the Sales Tax Authorities, which in any case would not go to prove that the alleged sale to the assessee indeed had taken place ?

2. When the matter is taken up for hearing, learned Standing Counsel for the Department brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019, dated 8th August,2019, 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.1,00,00,000/- (Rupees One Crore).

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(CS-IV)

//True copy//

Sub Assistant Registrar

dixit

To

1.The Assistant Registrar,
Income Tax Appellate Tribunal,
Rajaji Bhavan Besant Nagar,
Chennai 'C' Bench, Chennai.

2. The Commissioner of Income Tax, Chennai.

3. The Assistant Commissioner of Income Tax,
Central Circle II 5, Chennai.

+1cc to Mr.S.Sridhar, Advocate SR.No.76656

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No.77079

TCA No.189 OF 2010

MG(CO)
GMY(16/10/2019)