IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case (Appeal) No.360 of 2010

Commissioner of Income Tax
Salem. .. Appellant/ Respondent

v.

V.Palaniappan .. Respondent/ Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 23.10.2009 made in ITA.No.773/Mds/2008 against the order dated 07.03.2008 made in C.NO.1321(4) /06-07/IV on the file of the Commissioner of Income Tax, Chennai 34 for the Assessment Year 2003-2004 and against the order dated 31.03.2006 made in PAN NO. AGD The Public Prosecutor, High Court, Madras - 104. 05021 B on the file of the Income Tax officer,chennai for the Assessment Year 2003-2004 .

For Appellant : Mr.M.Swaminathan
Sr. Standing Counsel
assisted by
Ms.V.Pushpa
Jr. Standing Counsel

For Respondent : Mr.Sriram
for M/s.S.Sridhar

JUDGMENT
(Delivered by The Hon'ble Acting Chief Justice)

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 23.10.2009, for the Assessment Year 2003-2004, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in setting aside the order of the Commissioner of Income Tax under Section 263 on the ground that there was no error in the computation of capital gains by the Assessing Officer without appreciating that the assessee had held the property only from the date of family settlement viz. 4.7.2001 and therefore, the indexed cost of acquisition could be allowed only from the year 2001-02?"

2. When the matter is taken up for hearing, the learned Junior Standing Counsel 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is said to be less than the monetary limit imposed and, therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial question of law for determination in appropriate cases.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. Income Tax Appellate Tribunal,
   Madras "A" Bench,
   Chennai.

2. The Commissioner of Income Tax, Chennai-IV,
Chennai-34.

3. The Income Tax Officer,
Ward II(2), Chennai.

+1cc to Mr.M.Swaminathan , Advocate SR.No. 87174

A.SK(14/11/2019)