IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.4.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No.39 of 2010

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

.Vs.

Sri.K.M.Vidyasagar ..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 17.7.2009 made in ITA No.2600/07 against the order of the Commissioner of Income Tax, (Appeals-VIII), Chennai, No.121, Mahatma Gandhi Salai, Nungambakkam, Chennai - 34,order dated 24.08.2007 in AADPV3326 K for the Assessment Year 1998-99 and against the order of the Income Tax Officer, Ward V(4), Chennai - 34, order dated 29.03.2006 in GIR No.AADPV3326 K for the Assessment Year 1998-99.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

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

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 17.7.2009 made in ITA No.2600/Mds/07, by raising the following substantial questions of law:

"(i) Whether, on the facts and circumstances of the case, the Tribunal is right in finding that the assessment was completed under Section 143(3) instead of under Section 144 of the Income Tax Act?
(ii) Whether, on the facts and circumstances of the case, the Tribunal is right in deciding as the reassessment proceedings on the basis of an invalid notice under Section 148 are null and void ab-initio?"

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.
ssk.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax
(Appeals)VIII Chennai.

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

3. The Income Tax Officer,
Ward V(4), Chennai - 34.

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.37129
+1cc to Mr.S.Sridhar, Advocate, SR.No.36177

TCA No.39 of 2010

RV(CO)
Kak(10/07/2019)