IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.1.2019

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

Tax Case Appeal No.669 of 2010

The Commissioner of Income Tax I,
Coimbatore. ..Appellant

Vs.

M/s.Shri.A.Jagamani,
108, Thiruvenkatasamy Road,
R.S.Puram, Coimbatore-2
(PAN No.ACCPJ6883G) ..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 9.10.2009 made in ITA No.1189/Mds/2009 and against the o/o. Commissioner of Income Tax (Appeals)-1, Coimbatore, Made in PAN:ACCPJ6883G dated 19/05/2009 for the assessment year 2006-2007 and against the o/o the Commissioner of Income Tax officer, Ward-II(3), Coimbatore in PAN ACCPJ6883G dt. 29/12/2008 for the assessment year 2006 - 2007.

For Appellant : Mr.T.R.Senthilkumar
Assisted by K.G.Usha Rani
Senior Standing Counsel

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 9.10.2009 made in ITA No.1189/Mds/2009, by raising the following substantial questions of law:

"(i) Whether, on the facts and in circumstances of the case, the Income Tax Appellate Tribunal was right in law in confirming the order of the Commissioner of Income Tax (Appeals), in computing the capital gains to adopt the sale consideration Rs.45 lakhs as per the Unregistered agreement of sale, even though as per the Registrar's sale value at Rs.1,09,77,120/- is valid?

ii) Whether on the facts and in circumstances of the the case, the Income Tax Appellate Tribunal was right in law in adopting Unregistered sale agreement of Rs.45 lakhs, even though that there is a transfer of property as per the provisions of section 2(47) of the Income Tax Act, 1961?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1.The Commissioner of Income Tax I,
Coimbatore.

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

3.The Income Tax Officer,
Ward II(3), Coimbatore.

4.The Commissioner of Income Tax Appeals(I)
Coimbatore.

5.Income Tax Officer, Ward -II(3)
Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate, S.R.No.2946

TCA No.669 of 2010

RR(CO)

rrs 13/03/2019