IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.3.2019

CORAM

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

Tax Case Appeal Nos.749 to 751 of 2010

The Commissioner of Income Tax
Trichy. Appellant in all

Vs.

M/s.Swetha Industries,
105/1, Thanjavur Main Road,
Asoor, Trichy 620 011. Respondent in all

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 15.5.2006 made in ITA Nos.457/Mds/2005, 458/Mds/2005 and 459/Mds/2005 against the order of Commissioner of Income Tax(Appeals) No.4, Williams Road, Contonment, Tiruchirapalli-620 001 for the ITA.No.179, 180 & 182 dt.30.11.04 for the assessment year 1999-2000, 2000-01, & 2002-03 respectively against the assessment order of Income Tax Department, Ward IV(1) Tiruchirapalli for the PA.No.GIR.NO. AATFS0558C dt.31.03.2004 for the assessment years 1999-2000, 2000-01, 2002-03 respectively.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel
For respondent : Mr.A.S.Srinivasan for
Mr.S.Sridhar

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 15.5.2006 made in ITA Nos.457/Mds/2005, 458/Mds/2005 and 459/Mds/2005, by raising the following substantial question of law:

> "Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in law in holding that once the assessment was made under

Section 143(3) of the Act, any failure under Section 143(1)(a) stands condoned and therefore provisions of section 184(5) would not be invoked under the Income Tax Act, 1961?"

2. When the matters are 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To
1. The Commissioner of Income Tax
Trichy.

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

3. The Income Tax Officer,
Ward-IV(1), Trichy.

4.The Commissioner of Income Tax(Appeals)
No.4, Williams Road, Contonment,
Tiruchirapalli-620 001.

5.The Assistant Registrar,
Income Tax Appellate Tribunal,
III rd Floor,
Rajaji Bhavan,
Besand Nagar, Chennai-90

+1cc to Mr.S.Sridhar, Advocate sr.26225
+1cc to Mr.M.Swaminathan, Advocate sr.25980

TCA Nos.749 to 751 of 2010

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