IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM

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

Tax Case Appeal No. 765 of 2010

Commissioner of Income Tax - IV Chennai.
Appellant/ Appellant

Vs.

Sri.S.Imtiaz Ahamed Respondent/ Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, dated 08.01.2010 made in I.T.A No.1114/Mds./2009 against the order passed by the Commissioner of Income Tax (appeals) VI, Chennai. 34. dated 24.03.2009 made in ITA NO.188/07 and against the order passed by the Deputy Commissioner of income Tax Circle I, Chennai. 600 034 dated 17/12/2007 made in 21756-1/AACPA7322H for the Assessment Year 1998-1999.

For Appellant : Mr.Karthik Renganathan,
Standing Counsel
for Mr. Arun Kurian Joseph

For Respondent : Mr. Philip George

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, Chennai 'B' Bench, dated 08.01.2010, made in I.T.A.No.1114/Mds/2009 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 upholding the order of the Commissioner of Income Tax (Appeals) deleting the value of gold brought into India by the assessee at Rs.45,23,555/- accepting the assessee's explanation that the source for investment was out the gifts received from his mother-in-law, who were in the U.K. and who in turn had allegedly taken a loan from one Shri Sheik Dawood of Dubai in 1997 even though there was no evidence to prove the source of such loan and the genuineness of the transaction?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the deletion or addition mentioned in the preceding ground without appreciating that the assessee was shifting his stand by first claiming the status of non-resident and then explaining the source to be gift from his mother-in law and father-in-law and again claiming that, they in turn had taken loan from Shri Dawood of Dubai when it was proved that they did not have the financial capacity to make the gifts and that too without proving the creditworthiness of Shri Sheik Dawood?

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(CS)

//True Copy//

Sub Assistant Registrar

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To

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

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

3.The Commissioner of Income Tax (appeals)-VI,
121, Nungambakkam High Road, Chennai. 600 034.

4. The Deputy Commissioner of income Tax Circle I, Chennai. 600 034

+1cc to Mr.G.Baskar,Advocate SR.No. 22363

TCA No.765 of 2010

A.SK(03/04/2019)