IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Tax Case Appeal No.313 of 2011

The Commissioner of Income Tax,
Chennai ... Appellant

-vs-

P.Vikram ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'D' Bench, Chennai, dated 31.01.2011 in ITA No.1973/Mds/10 for the assessment year 2006-07, against the order of the Commissioner of Income Tax(Appeals) VI(I/C), Chennai-34 dated 16.08.2010 for the Assessment Year 2006-07 in I.T.A.No.160/08-09 against the order of the Assistant Commissioner of Income Tax, Chennai-34, dated 30.12.2008 for the Assessment Year 2006-07.

For Appellant : Mrs.V.Pushpa
Standing Counsel

J U D G M E N T

Judgment of the Court was delivered by T.S.Sivagnanam, J.]

This appeal by the appellant/Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 31.01.2011 in ITA No.1973/Mds/10 for the assessment year 2006-07.

2. Heard Mrs.V.Pushpa, learned Standing Counsel for the appellant.

3. This Appeal has been admitted on the following Substantial Question of Law:-

> " Whether on the facts and circumstances of the case, the Tribunal was right in adopting the index at 100 relating to the Financial Year 1981-82, since the year in which the said property was acquired by the Grand father was 61-62, for the purpose of computing the LTCG and not the

index value of 426 relating to the Financial Year 2001-02, during the year in which the grand father had died and assessee had inherited the property by Will and had actually become the owner as per Section 48(iii)?"

4. We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5. Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Question of Law, framed for consideration, is left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(svki)

To

1. The Income Tax Appellate Tribunal 'D' Bench
   Madras.
2. The Commissioner of Income Tax(Appeals-VI),
   Chennai 34.
3. The Assistant Commissioner of Income Tax, Circle II,
   Chennai 34.

+1 cc to M/s.M.Swaminathan, Advocate Sr.No.59

T.C.A.No.313 of 2011

PPA(CO)
CSL/19.02.2019