IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM

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

Tax Case (Appeal) No.505 of 2011

Commissioner of Income Tax I,
Thiruchirappali. ... Appellant

-vs-

Shri T.Mithalal ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal, "C" Bench, Chennai, dated 31.03.2009, passed in I.T.A.No.1122/Mds/2007 for the assessment year 2004-05, against the order of the Commissioner of Income Tax(Appeals), Tiruchirappalli, dated 27/01/2007 made in ITA No.464/05-06 and against the order of the Deputy Commissioner of Income Tax, Circle II, Tiruchirappalli, dated 28/09/2005 made in PAN No.AADPM1740N/Cir II/Try/04-05.

For Appellant : Ms.V.Pushpa
Senior Standing Counsel
for M/s.M.Swaminathan

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

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam, J.)

This appeal by the appellant/Revenue is directed against the order of the Income-tax Appellate Tribunal, "C" Bench, Chennai, dated 31.03.2009, passed in I.T.A.No.1122/Mds/2007 for the assessment year 2004-05.

2.Heard Ms.V.Pushpa, learned Senior Standing Counsel for the appellant/Revenue and Mr.A.S.Sriraman, learned counsel for the respondent/assessee.

3.This Appeal has been admitted on 04.01.2012, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in cancelling the penalty under Section 271(c) levied on the assessee on the ground that the income detected during the survey was shown by the assessee in the revised return filed after the survey?"

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 or to fall under the exceptional clauses mentioned in the Circular.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Income-tax Appellate Tribunal, "C" Bench, Chennai.

2. The Commissioner of Income Tax (Appeals) Tiruchirappalli

3. The Deputy Commissioner of Income Tax,
Circle II, Tiruchirappalli.

4. The Commissioner of Income Tax, Trichy.

+1cc to Mr.M.Swaminathan, Advocate SR.No.5196

GP(CO)
GMY(28/02/2019)