IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM

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

Tax Case Appeal Nos.531 & 532 of 2011

The Commissioner of Income Tax
Chennai .. Appellant in both TCAs.

Vs.

M/s. A.R.Complex
69, Arcot Road
Alwarthirunagar
Chennai 600 087. .. Respondent in both TCAs.

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench dated 09.9.2005 in ITA Nos.1279/Mds/2004 and 1280/Mds/2004 respectively, and against the order of the Commissioner of Income Tax Appellate Tribunal, Bench 'A'Chennai (SMC) dated 01.04.2005, made in ITA Nos.1279 & 1280/Mds/04, Assessment years 2000-01 & 2001-2002, and against the order of the The Commissioner of Income Tax (Appeals) VIII, Chennai-34 dated 04.02.2004 made in IT/Appeal No.57/2003-04 & 58/2003-04 and against the order of The Income Tax Officer, Ward III(i), Chennai, dated 17.09.2003 made in PAN/GIR No.75208-A, made in PAN/GIR No.75208-A, Assessment year 2001-2002 and 2000-2001 respectively.

For Appellant : Ms.Premalatha
Standing Counsel

For Respondent : Ms.Prithivi Chopda

J U D G M E N T
(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, Madras "A" Bench dated 09.9.2005 in ITA Nos.1279/Mds/2004 and 1280/Mds/2004 respectively, by raising the following substantial questions of law:

"(i) Whether or not the Income of the Firm can be taxed under the classification of Income under Section 14(c) of the Income Tax Act? and

(ii) Whether the Tribunal is right in upholding the order of the Commissioner of Income Tax (Appeals) on the issue which was not even raised by the assessee?"

2. When the matters are taken up for hearing, 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 appeals filed by the Revenue are dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

kpl

To

1. The Commissioner of Income Tax Appellate Tribunal
Madras "A" Bench

2. The Commissioner of Income Tax,(Appeals)VIII, Chennai-34

3. The Income-tax Officer
Ward-III(1), Chennai

+1cc to Ms.S.Premalatha, Advocate SR.No.10081

+1cc to Mr.T.Pramodkumar Chopda, Advocate SR.No.10303

TCA Nos.531 & 532 of 2011.

BR(CO)
GMY(23/03/2019)