IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.8.2019

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.549 of 2011 & MP.No.1 of 2011

Commissioner of Income
Tax-I, Tiruchirapalli ...Appellant

Vs

Shri.T.Leelaram ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.3.2009 made in ITA.No.1123/Mds/2007 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2004-05 as against the order of the commissioner of Income tax (Appeals) No.4,William Road,Contonment Tiruchirapalli 620 601 made in ITA.No 465/05-06 dated 27.01.2007 as against the order of the Deputy commissioner of Income Tax Circle II, No.10.Williams Road Contnment Tiruchirapalli in PAN NO.AABPL 7675 D/CIR II/TRY/04-05 dated 28.09.2005 for the Assessment Year 2004-2005.

For Appellant: Ms.S.Premalatha, SC
For Respondent: Mr.A.S.Sriraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Ms.S.Premalatha, learned Standing Counsel appearing for the appellant - Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31.3.2009 made in ITA.No. 1123/Mds/2007 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2004-05.

3. The appeal was admitted on 07.2.2012 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in canceling the penalty under Section 271 (1)(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. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial question of law framed is left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs. Consequently, the connected MP is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'C' BENCH.

2.THE COMMISSIONER OF INCOME TAX (APPEALS) NO.4,WILLIAM ROAD,CONTONMENT TIRUCHIRAPALLI

3.THE DEPUTY COMMISSIONER OF INCOME TAX CIRCLE II, NO.10.WILLIAMS ROAD CONTNMENT TIRUCHIRAPALLI

+1cc to Mr.S.Sridhar , Advocate SR.No. 70608
+1cc to Mr.M.Swaminathan, Advocate SR.No. 70574

TCA.No.549 of 2011
and MP.No.1 of 2011

spd
A.SK(04/10/2019)