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.210 of 2012

The Commissioner of Income Tax,
Central II
108, M.G.Road,
Chennai - 600 034.
.... Appellant

-vs-

Sohan Kanwar Nahar ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai, dated 01.03.2012 in ITA No.2141/Mds/2010 for the assessment year 2006-07 against the order dated 20.09.2010 passed by the CIT(A)-II, Chennai made in I.T.A.Nos.228/07-08, dated 20.09.2010 against the Deputy Commissioner of Income Tax, Central Circle II(I), dated 21.12.2007 made in GI/PAN NO.AAEPN4718L for the Assessment Year 2006-2007.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel
& Ms.K.G.UshaRani

For Respondent : Mr.J.Naresh Kumar

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 'D' Bench, Chennai, dated 01.03.2012 in ITA No.2141/Mds/2010 for the assessment year 2006-07.

2. Heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel for the appellant and Mr.J.Nareshkumar, learned counsel for the respondent.

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

> " i)Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that urban land sold by the assessee falls within the meaning of Capital Asset as per Section 2(14)(iii)(b) of the Income Tax Act during the relevant period 2005-06? and
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> ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that lands is agricultural land, when the said land was developed along with the adjacent lands into plots which fact indicates that the land in question is not an agricultural land during the relevant previous year?"

4. We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax (Appeals) 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 Questions of Law, framed for consideration, are 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal 'D' Bench,
   Chennai.

2. The Commissioner of Income TAx (Appeals-II),
   Chennai 34.

3. The Deputy Commissioner of Income Tax,
   Central Circle 11(i),
   First Floor, New Building,
   46, M.G.Road, Nungambakkam, Chennai 34.

+1 cc to M/s.J.Nareshkumar, Advocate Sr.No.822
+1 cc to Mr.T.R.Senthilkumar, Advocate Sr.No.202

T.C.A.No.210 of 2012

CSL/03.04.2019