IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.270 of 2018

Commissioner of Income Tax,
Salary Ward II (2),
Chennai. ... Appellant

Vs

Mrs.Mary John
Old No.92-B, New No.15,
1st floor, A1 Block, 9th Main Road,
Anna Nagar, Chennai 600 040.
PAN: ABRPM 1156 H ...Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 31.10.2017 in I.T.A.No.2089/Mds/2014 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 2008-09 against the order dated 28/04/2014 in ITA.NO.35/2013-14 on the file of the Commissioner of Income Tax(Appeals)-II, 121, Mahatma Gandhi Road, Nungambakkam, Chennai-34 against the order dated 13/03/2013 vide PAN.NO.ABRPM1156H on the file of the Income Tax Officer, Salary Ward-II(2), Chennai-34.

For Appellant : Mrs.V.Pushpa

For Respondent : Mr.Anand Sashidharan

J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This tax case appeal has been filed against the order of the Income Tax Appellate Tribunal dated 31.10.2017 in I.T.A.No.2089/Mds/2014 in allowing the appeal filed by the assessee against the order of the Commissioner of Income Tax (Appeals) by which the appeal filed by the assessee was dismissed.

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

3.This tax case appeal is admitted on the following substantial questions of law:

> "(i)Whether the Income Tax Appellate Tribunal was right in holding that the failure to deposit the unutilized capital gain in a bank account in accordance with the capital gain account scheme is a procedural lapse and that the provisions of Section 54 (2) of the Income Tax 1961 are not violated?
>
> (ii)Whether the Income Tax Appellate Tribunal was right in not following the provisions of Section 54 92) of the Income Tax Act 1961 which mandates that the unutilized capital gain must be deposited in a bank account in accordance with the capital gain account scheme before the due date for furnishing the return of income u/s 139 (1) of the Income Tax Act 1961, inspite of the fact that no such deposit was made by the assessee?"

4.Mrs.V.Pushpa, learned Counsel appearing on behalf of the appellant would submit that the tax effect in this case is less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In this case, tax effect is less than Rs.1 crore and therefore, the appeal has to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the Circular, which prescribes monetary limit for filing appeal. Paragraph No.2 is usefully extracted as follows:

> "2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appealate Tribunal	50,00,000

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S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000"

6.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, this Tax Case Appeal is dismissed on account of tax effect. However, the substantial questions of law framed are left open. In the event the tax effect is above the 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.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.Commissioner of Income Tax,
Salary Ward II (2),
Chennai.

2.Income Tax Appellate Tribunal,
Chennai 'C' Bench, Chennai.

3.The Commissioner of Income Tax Appeals-II,
Chennai-34.

+1cc to Mr.M.Swaminathan, Advocate sr.97826
+1cc to Mr.Anand Sashidharan, Advocate sr.97377

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