In the High Court of Judicature at Madras

Dated : 02.1.2019
Coram :
The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.1045 of 2014 & MP.No.1 of 2014

The Commissioner of Income Tax, Ward I, Tirupur ...Appellant

Vs

Smt.K.Malarvizhi ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.5.2014 in ITA No.865/Mds/2014 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2009-10. against the order dated:26/02/2014 in IT Appeal No.275/11-12 on the file of the Commissioner Of Income Tax (Appeals)- Coimbatore for the assessment year 2009-2010, against the order dated:30/12/2011 in PAN/GIR No.AFEPM7040P on the file of the Income Tax Officer, ward I(4) Tiruppur.

For Appellant : Mr.M.Swaminathan, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Senior Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The Revenue has filed the appeal by raising the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the findings of the Commissioner of Income Tax (Appeals) that the property, which is transferred on 22.12.2008, is still enjoyed by the trust after a period of five years ? And
>
> ii. Whether the Income Tax Appellate Tribunal is justified in holding that there is no further requirement for cancellation

deed without considering whether an award of the Lok Adalat can have the effect in canceling registration of lands already given effect to ?"

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law raised are left open. In the event the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the 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. Consequently, the connected MP is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Income Tax,
Ward I, Tirupur.

2.The Income Tax Appellate Tribunal,
Madras 'D' Bench, Chennai.

3.The Commissioner of Income Tax Appeals-II,
Coimbatore.

4.The Income Tax officer,
Ward I (4), Tiruppur.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.55

TCA.No.1045 of 2014
and MP.No.1 of 2014

SSI(CO)
GSP(13/02/2019)