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.666 of 2014

The Commissioner of Income Tax, Chennai ...Appellant

Vs

Shri K.Sirajudeen ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.7.2013 in ITA No.788/Mds/2013 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2009-10.

For Appellant : Mr.M.Swaminathan, SSC, Ms.V.Pushpa, JSC & Ms.V.Premalatha, JSC

For Respondent : Mr.R.Sivaraman

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned 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 appeal was admitted on 03.12.2014 on the following substantial questions of law :

> "i. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the addition made by the Assessing Officer to the income of the assessee in respect of foreign remittances shown by the assessee as gifts is not justified ? And
>
> ii. Whether the Tribunal erred in not considering the plea of the Revenue that the ingredients of Section 68 get attracted to

the facts of the present case, as the assessee has not discharged the onus as required under Section 68 of the Income Tax Act ?"

3. The Revenue seeks to withdraw the 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 In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
Madras 'C' Bench.

2.The Commissioner of Income Tax,
Chennai.

3.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.75

TCA.No.666 of 2014

SPD(CO)
GN(25/02/2019)