IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.02.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No. 135 of 2017

Commissioner of Income Tax
No.121, Mahatma Gandhi Road
Nungambakkam,
Chennai. ..Appellant /Respondent

Vs.

M/s. Indus Valley Housing
A-68, Anna Nagar East,
Chennai - 600 102.
PAN: AAC FI 2508 P ..Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 22.04.2016 made in ITA No.611/Mds/2014 against the order of the Commissioner of Income Tax(Appeals) VII dated 21.01.2014 made in ITA No. 948/13-14 for the Assessment Year 2010-11.

For Appellant : Mr.Karthik Renganathan
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Delivered by DR.VINEET KOTHARI, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, by raising the following substantial questions of law:

"Whether default in payment of tax or interest could be presumed to be for good and sufficient reason and penalty under Section 221(1) of the Act deleted by the Tribunal, when the assessee was found to have spent a huge amount in business diversification and/or expansion and thus short of funds to pay taxes and interest on taxes?".

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsg

1.The Commissioner of Income Tax (Appeal)-VII
O/o. The Commissioner of Income Tax (Appeals)-VII
121, Mahatma Gandhi Road, Chennai-34.

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

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rrs 26/03/2019