IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.12.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.297 of 2017

Principal Commissioner of Income Tax 1,
No.108, Mahatma Gandhi Road,
Chennai 600 034. Appellant

Vs.

M/s.Saravana Selvarathnam Retail
Pvt. Ltd.,
No.14, Ranganathan Street,
T.Nagar, Chennai 600 017.
PAN: AAK CS 2680 M Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 5.8.2016 made in ITA No.2235/Mds/2015, against the order of the Commissioner of Income Tax Appeals(18) Chennai dated 23.09.2015 against PAN.NO.AAKCS 2680M against the order of the Assistant Commissioner of Income Tax, Central Circle IV(2), Room No.121, New Building No.46(Old.No.108) Mahatma Gandhi Road, Chennai-34 dated 31.03.2014 for the Assesment year 20.12.2013.

For Appellant : Mr.T.R.Senthilkumar
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, 'B' Bench, Chennai, dated 5.8.2016 made in ITA No.2235/Mds/2015, for the Assessment Year 2012-2013, by raising the following substantial questions of law:

"(i) In case of shortage of stock, when there is a presumption of undisclosed sale not shown in the books of accounts, whether the entire value of the stock found short is to be added to the income or only the gross profit in respect of the undisclosed sale?

ii) Whether the Tribunal erred in law in holding that in case of shortage of stock, only the gross profit on the sale of the stock of silver and diamond found short was to be added to the income even if the cost of purchase of such silver and diamond items had admittedly been claimed as expenditure in the books of the assessee?"

2. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, 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.1,00,00,000/- (Rupees One Crore).

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 withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. Principal Commissioner of Income Tax 1,
No.108, Mahatma Gandhi Road,
Chennai 600 034.

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

3. The Assistant Commissioner of
Income Tax,
Central Circle IV(2), Chennai.

4. The Assistant Commissioner of Income Tax,
Central Circle (IV)2,
Room No.121, New Building,
No.46 (old No.108),
Mahatma Gandhi Road,
Chennai-34.

+1cc to Mr.R.Sivaraman, Advocate sr.102652
+1cc to Mr.T.R.Senthil Kumar, Advocate sr.102114

rgn(co)
nr 29/01/2020