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.727 OF 2017

Principal Commissioner of Income
Tax-3, Coimbatore ...Appellant

Vs

M/s.Shivam Traders, Tirupur ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 04.5.2017 in ITA No.3395/Mds/2016 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2014-15, against the order passed by the Commissioner of Income Tax (Appeals) 3 Coimbatore, dated 24.10.2016 made in IT Appeal No.139/16-17, against the order passed by the Deputy Commissioner of Income Tax, circle -2, Tiruppur, dated 31.03.2016 made in PA.No/GIR.No.ABVFS9742F.

For Appellant : Mr.T.R.Senthilkumar, SSC & Ms.K.G.Usharani, JSC

For Respondent : Mr.V.Srinivasan

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 is filed by the Revenue by raising the following substantial questions of law :

> "i. Whether, on the merits of the case, the Tribunal ignored the discrepancy in the numbering on the gold seized from the appellant as unaccounted as against that on the gold in a tampered form and said to have

purchased and claimed to be accounted ? And

ii. Whether, on the merit of the case, the Tribunal erred in deciding the case on the basis of probabilities ignoring the clear discrepancy in terms on the numbering on the gold in question highlighted by the Assessing Officer and the CIT(A)?"

` 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 In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law raised are left open.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. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal madras 'D'Bench, Chennai.

2. The Commissioner of Income Tax (Appeals) -3, Coimbatore.

3. The Deputy Commissioner of Income Tax, Circle-2, Tiruppur.

4. The Principal Commissioner of Income Tax 3,
No.63, Race Course Road, Coimbatore.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No.207

+1cc to Mr.V.Srinivasan, Advocate SR.No.5 (28/02/2019)

TCA.No.727 of 2017

BS(CO)
GMY(13/02/2019)