IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.1.2020

CORAM

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

TAX CASE (APPEAL) NOS.1081 & 1084 OF 2010

Commissioner of Income Tax
Chennai ... Appellant in both cases

Vs.

Shri.R.Rajinikant ... Respondent in both cases

Prayer:-

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 18.12.2009 made in ITA No.1573/Mds/2009 and ITA No.1576/Mds/2009.

Against the order of the Commissioner of Income Tax (Appeals)-IV, Ch-34, dated 17.07.2009 made in ITA.Nos.55/2006 & 107 of 2008,

Against the Order, dated 31.03.2006 & 25.11.2008 made in under sec 143(3) of the Income Tax Act, 1961 for the Assessment year 2002-03 & 2006-07 on the file of the Deputy Commissioner of Income Media Circle -II Chennai.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 18.12.2009 made in ITA No.1573/Mds/2009 and ITA No.1576/Mds/2009, for the Assessment Years 2002-2003 and 2006-2007, by raising the following substantial questions of law:

"i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the income from the money lending activity between its friends and relatives as hand loan without any stipulated terms on the basis of relationship, as per the assessee's admission during the course of survey had to be treated as income from business, when the assessee had ratified the statement given during the survey by way of revised return, wherein the bad debt claim was withdrawn? And

ii) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled for claim of deduction of bad debt for the assessment year 2006-07?"

2. When the matters are 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax
Chennai

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

3. The Assistant Commissioner
of Income Tax,
Media Circle-II, Chennai.

4. The Commissioner of Income Tax (Appeals)-VI,
Chennai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.4502
+1cc to Mr.M.Sridhar, Advocate, S.R.No.3636

GP(CO)
CS/30/11/2020