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) No.325 of 2010

Commissioner of Income Tax
Chennai ... Appellant

Vs.

Shri.A.S.Ibrahim Rawther ... 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 28.8.2009 made in ITA No.2067/Mds/2008 against the order dated 23.06.2008 of the Commissioner of Income Tax (Appeals)II, Chennai for the Assessment year 2005-2006 in I.T.A. 172/2007-2008 against an order under Section 143(3) of the Income Tax Act dated 24.12.2007 passed by the Income Tax Officer, Media Ward I, Chennai in PAN. No. AAAP141928.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman

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 28.8.2009 made in ITA No.2067/Mds/2008, for the Assessment Year 2005-2006, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in holding that the amount of Rs.1.2 cr. under the agreement only when the assessee completes the conditions under agreement and receives the last balance amount during the year 2006 and therefore the amount of Rs.1.2 cr. will be assessable only in

the assessment year 2007-08 and during the present assessment year 2005-06?"

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is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ssk.

To

1. Commissioner of Income Tax
   Chennai

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

3. The Commissioner of Income Tax Appeals VI, Chennai 34.

4. The Income Tax officer
Media Ward I, Chennai

+1 CC to Mr.S.Sridhar, Advocate sr 3638.

T.C.(A) No.325 of 2010

RGN(CO)
SP(11/03/2020)