IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.2.2020

CORAM

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

Tax Case (Appeal) No.497 of 2010

The Commissioner of Income Tax
Business Circle V, Chennai. Appellant

Vs.

Sri.Vijayakumar Gauhar 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 23.10.2009 made in ITA No.1375/Mds/2009. And against the Commissioner of Income Tax-(Appeals)-VIII, Chennai-34, and made in ITA No.72/08-09 dated 25/06/2009 and against the Assistant Commissioner of Income Tax, Business Circle-V, Chennai-34, Order dt:24/12/2008, for the Assessment year 2001-02.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Kumar for
Mr.T.N.Seetharaman

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 23.10.2009 made in ITA No.1375/Mds/2009, for the Assessment Year 2001-2002, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in not deciding the issue whether the CIT(A) was competent to direct issuance of notice u/s 148 for Assessment Year 2000-01 while holding the income does not relate to assessment year 2001-02?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in directing the assessing officer to take appropriate action without considering the time limit to reopen already expired?"

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is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases.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(CS-VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax
Business Circle V, Chennai.

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

3. The Assistant Commissioner
of Income Tax,
Business Circle V, Chennai.

T.C.(A) No.497 of 2010

RR(CO)
CB(20/03/2020)