IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM

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

Tax Case Appeal Nos.569, 570 & 571 of 2010

The Commissioner of Wealth-tax
Pondicherry. ... Appellant in all appeals

Vs.

M.Banumathy ... Respondent in all appeals

Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 03.08.2009 passed in I.T.A.Nos.11/Mds/2009, 12/Mds/2009 & 13/Mds/2009, preferred against the order of the Officer of the commissioner of Income Tax Appeals (XII) Chennai 34, in ITA Nos.46 to 48/07-08 dated 26.11.2008 filed against the Assessment order of the Deputy Commissioner of Wealth Tax Circle II, for the Assessment year 2001-02 and 2002-2003.

For Appellant : Mr.J.Narayanasamy
(in all appeal) Senior Standing Counsel

For Respondent : No appearance
(in all appeal)

COMMON JUDGMENT

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

The Revenue has filed these Appeals against the order of the learned Income Tax Appellate Tribunal dated 03.08.2009 whereby the learned Tribunal dismissed the Revenue's appeal on the ground of Revenue stake being below the monetary limit of Rs.2,00,000/- prescribed in the Instruction No.2 of 2005 dated 24th October, 2005. Para 3 of the order of the Tribunal is quoted below for ready reference:

"3.We have also heard the learned D.R. and considered the facts and material on record. We find that the tax effect in these cases is below Rs.2,00,000/0 fixed by the Central Board of Direct Taxes for filing appeals before Income Tax Appellate Tribunal vide Instruction No.2 of 2005 dated 24th October, 2005. The Revenue has not made out a case to establish that the issue falls within the exceptions provided in the said circular/Instruction."

2.The learned counsel for the Appellant/Revenue however submitted that in the Instruction No.5/2008 dated 15.05.2008, if the matter involves some audit objection, the instruction to withdraw the appeal on the Revenue stake being below the prescribed limit of Rs.2,00,000/- will not apply and therefore, that exception has not been considered by the learned Tribunal and therefore, the matter deserves to be remanded back to the learned Tribunal.

3.Nobody appears on behalf of the Respondent/Assessee, though name of Mr.V.S.Jayakumar is shown in the cause list.

4.Having heard the learned counsel for the Appellant/Revenue, we are of the opinion that the matter deserves to send back to the learned Tribunal to reconsider the matter and after quoting the relevant instructions to note, the learned Tribunal should record its findings as to whether the appeals itself are to be heard on merits and deserves to be dismissed as withdrawn by the Appellant/Revenue, in view of the Revenue stake being below the prescribed minimum.

5.Accordingly, the present Appeals filed by the Appellant/ Revenue for statistical purpose are dismissed as withdrawn, setting aside the order of the Tribunal dated 03.08.2009. We remand the matter back to the learned Tribunal for deciding the case again. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

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

2.The Deputy Commissioner of
Wealth Tax circle II,
Cuddalore.

3.The Commissioner of Income Tax,
Appeals(XII) Chennai-34.

+1cc to Mr.V.Narayanaswamy, Advocate SR.6892

PPA(CO)
CB(16/03/2020)