IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

CORAM

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

Tax Case (Appeal) No.414 of 2011

The Commissioner of Income Tax -VII,
Chennai ..Appellant /Appellant

Vs.

Smt.Shivani
36, Wallaja Road
Chennai 600 002
PAN No.AAGPD0293E ..Respondent/Respondent

Prayer : Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 22.12.2010 in ITA.No.803/Mds/2009, and preferred against the order of the Commissioner of Income Tax(Appeals) -IX, Chennai -34 made in ITA.No.69/05-06, dated 21.01.2009, for the Assessment year 1997-98 and against the order of the Assistant Commissioner of Income Tax, Central Circle - I(1), Chennai -34 dated 31/03/2005 made in PAN.No.AAGPD5293E for the assessment year 1997-98.

For Appellant : Mr.T.R.Senthil Kumar,
Sr.Standing Counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT

(Judgment of the Court was 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, 'D' Bench, Madras, by raising the following substantial questions of law:

"1.Whether under the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not considering the issue on merits, Short

Term Capital Gains on account of sale of shares to the tune of Rs.1,79,10,416/- of NEPC Group of companies through share brokers, M/s.N.M.Associates and Swastic Capital Services is valid?

2.Whether under the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in dismissing the appeal filed by the revenue, even though the assessing officer followed the direction of the Hon'ble High Court in Writ Petition order dated 18.08.2003 in W.P.No.3694 to 3696 of 2001 and completed the Assessment under Section 143(3) read with 260 of the Income Tax Act, 1961?"

2. When the matter was taken up for hearing, the learned 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 not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal 'D' Bench,Chennai.
2.The Commissioner of Income Tax(Appeal)- IX,Chennai -34.
3.The Assistant Commissioner of Income Tax,
Central Circle I(1), Chennai -34.

+1cc to Mr.T.R.Senthilkumar, Advocate SR.No.13997

AKM/16.03.2020 /2p-5c/ T.C.(A) No.414 of 2011