IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM

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

TAX CASE (APPEAL) NO.622 OF 2011

Commissioner of Income Tax-I
Coimbatore. ... Appellant/Respondent

Vs.

Ms.N.Niveditha
No.29, Race Course Road
Coimbatore 641 018
PAN : ABRPN2734L ... Respondent/Appellant

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 30.06.2011 in ITA No.848/Mds/2010.

againt the order passed by the Commissioner of Income Tax (Appelas)-1, Coimbatore dated 19.03.2009, made in Appeal No.193/08-09 and order passed by the Assistant Commissioner of Income Tax, Company Ward-1, Coimbatore made in PAN.No.ABRPN2734L, dated 30.12.2008.

For Appellant : Mr.T.R.Senthil Kumar,
Sr.Standing Counsel
for Ms.K.G.Usha Rani

For Respondent : Mr.R.Venkata Narayanan

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J U D G M E N T
(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, 'B' Bench, Madras, by raising the following substantial questions of law:

https://hcservices.ecourts.gov.in/hcservices/

"1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the Capital Gains in regard to the sale of property was not liable for tax during the assessment year 2006-07 is valid?

2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding Capital Gains in regard to the sale of property was not liable to tax, even though the sale agreement does not fall within the purview of Section 53A of the Transfer of Property Act, 1882 and therefore as per Section 2(47)(v) of the Act, the said agreement dated 30.11.1997 and supplementary agreement dated 26.11.2002 cannot be defined as transfer?"

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 appeals 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(CS VI)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Commissioner of Income Tax Appeal 'B' Bench, Chennai.

2. The Commissioner of Income Tax I, Coimbatore.

3. The Commissioner of Income Tax (Appeals)I, Coimbatore.

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4. The Assistant Commissioner of Income Tax,
Company Ward-I, Coimbatore.

5. Ms.N.Niveditha
No.29, Race Course Road
Coimbatore 641 018
PAN : ABRPN2734L

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.12155
+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.12148

T.C.(A) No.622 of 2011

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