IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.6.2020

CORAM

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

Tax Case (A) No.45 of 2015

Commissioner of Income Tax
Circle I Erode. ..Appellant /Respondent

Vs.

SKM Shree Shivkumar
41, Periyar Nagar,
Erode.
PAN: AJCPS0629L ..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 17.7.2014 made in ITA No.1965/Mds/2011.

Arising from the order of Commissioner of Income Tax (A) I, Coimbatore dt.31.10.2011 in Appeal No.175/10-11, against the Assessment order dt.30.12.2010 of the Assistant Commissioner of Income Tax, Circle I, Erode, PAN.AJCPS0629L.

For Appellant : Mr.T.R.Senthilkumar
Senior Standing Counsel

For Respondent : Mr.M.P.Senthilkumar

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 17.7.2014 made in ITA No.1965/Mds/2011, for the Assessment Year 2008-2009, by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the provisions of

Sections 2(22)(e), 2(24)(iv) or 56(2)(vi) cannot be invoked in the assessee case?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that M/s.SKM Animal Feeds and Food (India) Limited could be made as a party to a family arrangement between the family members, when the company is a separate legal entity having a distinct existence, independent of its directors who are the family members?

(iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that alienation of the assets of the private company M/s.SKM Animal Feeds and Foods (India) Limited to one of its directors will not amount to transfer in pursuant of the family arrangement?

(iv) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that corporate veil of the company M/s.SKM Animal Feeds and Foods (India) Limited was required to be lifted to see the entire transaction as family settlement arrived through the arbitration award?"

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 III)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax (A) I,
   Coimbatore.

3. The Commissioner of Income Tax
   Circle I, Erode.

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