IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2020

CORAM

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

Tax Case (Appeal) No.703 of 2013

The Commissioner of Income Tax
Coimbatore. ... Appellant

Vs.

M/s.L.G.Nithyanandan
rep.by Smt.Krishnakumari
204, Vivam Residency
De SaBa Colony, West Club Road
Coimbatore 641 018. .. 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 15.03.2013 in ITA No.2347/Mds/2012 against the order of the Commissioner of Income Tax (Appeals) I Coimbatore dated 09.10.2012 for the Assessment year 2006-2007 and against the order of the Income Tax Officer Ward III(1) Coimbatore dated 30.12.2011 P.A. No./GIR No. AAAHL7919R.

For Appellant : Ms.K.G.Usha Rani,
Junior Standing Counsel

For Respondent : Mr.M.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

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, Chennai, by raising the following substantial questions of law:

" 1. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was no transfer of capital asset by the assessee during the previous year relevant to assessment year 2006-07 and the transfer had taken place in the previous year relevant to assessment year 1997-98?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the possession of the property was transferred by the assessee to the agreement holders, when agreement for sale was entered into?

3. Whether based on material available before it, the Income Tax Appellate Tribunal could have come to the conclusion that the assessee had put the agreement holders into possession of the property when agreement for sale was entered into?"

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.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

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

2. The Commissioner of Income Tax (Appeals)I
Coimbatore

3. The Income Tax officer
Ward III(1)
Coimbatore

T.C.(A) No.703 of 2013

MP(CO)
SP(29/07/2020)