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.94 OF 2013

Commissioner of Income Tax
Chennai ... Appellant/Appellant

Vs

Lalithkumar Tulsiyan
No.3, Apex Plaza, 1st Floor
Nungambakkam High Road
Chennai 600 034
PAN : ABRPT3382L ... Respondent/Respondent

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 20.09.2012 in ITA No.1395/Mds/2012.

The against the order passed by the Commissioner of Income Tax Appeals-I, Chennai, dated 24.04.2012 in ITA.No.289/08-09 against the order passed by the Assistant Commissioner of Income Tax, Central Circle IV (3), Chennai dated 29.12.2008 in PAN/GIR.No.ABRPT3382L for the Assessment year 2006-2007.

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

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, 'D' Bench, Madras, by raising the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that exchange of share between brothers is not taxable, without considering the definition of Section 2(47) which includes exchange of assets amounts to 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 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(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax, Chennai.

3. The Assistant Commissioner of
Income Tax Central Circle IV-3, Chennai.

4. Lalithkumar Tulsiyan
No.3, Apex Plaza, 1st Floor
Nungambakkam High Road
Chennai 600 034.

+1cc to Mr.T.R.Senthil Kumar,, Advocate, S.R.No.12152

T.C.(A) No.94 of 2013

PVS(CO)
CS/22/05/2020