IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.9.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.363 of 2019

The Commissioner of Income
Tax, Ward 2, Vellore-1. ...Appellant

Vs

Shri B.S.Venkatesan ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.1.2019 made in ITA.No.736/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2010-11.

For Appellant: Mrs.V.Pushpa, SC
For Respondent:Mr.B.Christ Das

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mrs.V.Pushpa, learned Standing Counsel appearing for the appellant - Revenue and Mr.B.Christ Das learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 22.1.2019 made in ITA.No.736/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench (for brevity, the Tribunal) for the assessment year 2010-11.

3. The Revenue has filed this appeal 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 holding that the property belongs to HUF and not to be assessable in the hands of the individual assessee ?

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the property belongs to HUF when such plea was not raised by the assessee before any of the Lower Authorities and they did not have any opportunity to adjudicate the same ? and

iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal erred in holding that the property belongs to HUF when there is no material on record to support the claim of the assessee and whether the alleged HUF has any PAN or the property has been disclosed it is accounts ? "

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law raised are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To
The Income Tax Appellate Tribunal,
Chennai 'A' Bench.

TCA.No.363 of 2019

A.SK(09/11/2020)