IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.7.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.551 of 2016

Commissioner of Income Tax,
Puducherry.

Appellant

vs

V.Mohene Respondent

Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench dated 28.8.2015 in I.T.A.No.1796/Mds/2014 arising upon order of the Commisioner of Income Tax (Appeals)VI, Chennai, dated 30.3.2014 in ITA No.495/13-14/A-VI, Assessment year 2009-10 against the order of the Income Tax Officer, word 1(1) Pondicherry dated 30.12.2011 PAN-ADMPM1875A for the Assessment year 2009-10.

For Appellant : Mr.J.Narayansamy,
Senior Standing Counsel

For Respondent : Mr.Akhil Akbarali

ORDER
(Made by Dr.Vineet Kothari,J)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residences and the counsel, staff of the Court appearing from their respective residences.

2. 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 dated 28.8.2015 in I.T.A.No.1796/Mds/2014 for the Assessment Year 2009-2010 by raising the following substantial questions of law:-

"1) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the income of Rs.67.25 from the sale of scrap does not belong to the assessee and the said income belongs to one Vijayalakshmi, Partner of the Firm M/s.Standard Steel Rolling Mills and the assessee had only earned a commission of Rs.1.27 lacs?

2) Whether on the facts and in the circumstances of the case, the Tribunal was right in not appreicating the fact that the assessee had taken contradicting stand before the CIT(A) stating that the amounts were received by the assessee on behalf of one Vijayalakshmi by producing agreements for the first time in contravention to Rr. 46A without allowing opportunity to the Assessing Officer?"

3. 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 Rupees 1,00,00,000/- (Rupees One Crore).

4. 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 order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. Commissioner of Income Tax, Puducherry.

2. The Income Tax Officer,
   Ward I(1), Puducherry 605 003.

3. Income Tax Appellate Tribunal, 'B' Bench, Madras

T.C.A.Nos.551 of 2016

rsk(co)

rv(28/9/2020)