IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.6.2020

CORAM

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

Tax Case (Appeal) Nos.719 & 720 of 2016

The Commissioner of Income Tax
Chennai. Appellant/Appellantin both cases

Vs.

Shri.P.Madan Mohan
PAN: AGZPM4775H Respondent/Respondent in TCA 719/2016

Shri.A.P.Rajmohan
PAN: AJJPR0649A Respondent/Respondent in TCA 720/2016

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 15.5.2015 made in ITA No.1493/Mds/2013 & 1495/Mds/2013 against the order of the Commissioner of Income Tax (Appeals)-IV, Chennai, dt.28.3.2013 and made in ITA No.592/2011-12, ITA.No.591/2011-12 against the Assessment order, dt.30.12.2011 and made in AGZPM 4775 H of the Income Tax Officer, Salary Ward I(2) Tambaram and AJJR0649A of the Income Tax Officer, Salary Ward I(3), Tambaram for the Assessment Year 2009-10 respectively.

For Appellant : Mr.T.Ravikumar,
in both cases Senior Standing Counsel for
Income Tax
For Respondents: Mr.Vijayaraghavan for
in both cases M/s.Subbaraya Aiyar
Padmanabhan

COMMON JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, dated 15.5.2015 made in ITA No.1493/Mds/2013 & 1495/Mds/2013, for the Assessment Year 2009-1020, by raising the following substantial questions of law:

"(i) Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that the Capital Gains is to be assessed in the Assessment Year 2007-08 and not in the Assessment Year 2009-2010?
(ii) Whether on the facts and in the circumstances of the case, the Tribunal was correct in holding the date of conclusion of agreement for joint development of land constitutes the date of transfer?
(iii) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessees are eligible for exemption u/s.54F even though multiple flats were allotted to them in lieu of cost of 60% of the land allotted to the builder?
(iv) Whether in the facts and circumstances of the case, the Tribunal was correct in treating the investment in multiple residential units located at different floors, different areas and different buildings and in different wings of same building as being eligible for deduction u/s.54F though as per provision, the investment in a residential unit alone is eligible for exemption?"

2. When the matters are 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Commissioner of Income Tax (Appeals)-IV
   121 Mahatma Gandhi Road,
   Nungambakkam, Chennai.

4. The Income Tax Officer,
   Salary Ward I (2)
   130 B, Mudichur Road,
   Tambaram West, Chennai.

5. The Income Tax Officer,
   Salary Ward I (3),
   130 B Mudichur Road,
   Tambaram, Chennai-45.

6. The Assistant Registrar
   Income Tax Appellate
   Rajaji Bhavan,
   Chennai.

Gj(co)
krd 25/6