IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.02.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.NO. 286 OF 2011

Commissioner of Income Tax,
Chennai ...Appellant/Appellant

v.

Shri A Jahabar Ali ...Respondent/Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "D" Bench, dated 13.10.2010 in I.T.A.No.1585/Mds/2009 for the Assessment Year 2005-06 and against the order passed by the Commissioner of Income Tax (Appeals) VI, Chennai 34, dated 20/07/2009 made in ITA No.17/08-09 and against the order passed by the Joint Commissioner of Income Tax, Range-I, Chennai-34 dated 13/05/2008 made in PA/GI.No.AAEPA4832E for Assessment year 2005-06.

For Appellant : Mr. Karthik Ranganathan
Standing Counsel
For Respondent : Mr. Asokapathy
for M/s. Pass Asso.

JUDGMENT
(Judgment was delivered by M. DURAISWAMY, J.)

We have heard Mr. Karthik Ranganathan, learned Standing Counsel for the appellant/Revenue and Mr.Asokapathy for the respondent/Assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 13.10.2010 made in I.T.A.No.1585/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench (for brevity, the Tribunal) for the Assessment Year 2005-06.

3.The appeal was admitted on 13.11.2009 on the following substantial question of law:

> "(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee had held the shares as investment and in concluding that the income from share transaction had to be assessed as short term capital gains and not on business income?
>
> (ii) Whether on the facts and circumstances of the case, the Tribunal was right in considering the issue relating to treatment of income from share transaction even though the issue was never considered by the Commissioner (Appeals) and did not arise out of the order of the Commissioner (Appeals)?"

4.The learned Standing Counsel appearing 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 08.08.2019 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 as withdrawn on account of the Low Tax Effect. The substantial question of law framed is left open. In the event the tax effect in this case 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 V)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2.The Commissioner of Incoem Tax,(Appeals)-VI, Chennai-34.

3.The Commissioner of Income Tax, Range-I, Chennai-34.

4.The Joint Commissioner of Income Tax, Range-I, Chennai-34.

+1cc to M/s.Pass Associates, Advocate, S.R.No.11859

T.C.A.No. 286 of 2011

CA(CO)
KKV/19/03/2021