IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.03.2021
CORAM
THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI
T.C.A.No.379 of 2014

Commissioner of Income Tax,
Circle II,
121, M.G. Road,
Chennai - 600 034. ... Appellant

Vs.

Dr.K.Premraj,
No.15, Old No.8,
Third Main Road,
R.A.Puram Chennai - 600 028 ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "C" Bench, dated 30.10.2013 in I.TA.No.1270/Mds/2013, Assessment Year 2008-09 against the order of the Commissioner of Income Tax(Appeals)-VI chennai in ITA No.358/11-12 dated 24.12.2012 relevant to the Assessment year 2008-2009 against the assessment order dated 27.12.2010 by the Assistant Commissioner of Income Tax, Central circle I(2)i/c Chennai-34.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.N.V.Balaji, learned counsel 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 30.10.2013 made in I.TA.No.1270/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "C" Bench (for brevity, the Tribunal) for the Assessment Year 2008-09.

3.The appeal was admitted on 26.08.2014 on the following substantial questions of law:

"1.Whether on the facts and in the

circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the transfer of goodwill is capital receipt without noting that the assessee has extinguished his right to carry out his profession in the name of Dr.Prem's Eye Clinic which is taxable under Section 28(va) of the Income Tax Act?

2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in ignoring the letter of the assessee dated 27.12.2010 in which the assessee himself has admitted to tax the money received as capital gains?"

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 08.08.2019 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 questions of law framed are 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

/TRUE COPY/

Sub-Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Chennai, "C" Bench

2.The Commissioner of Income Tax,
Circle II,
121, M.G. Road,
Chennai - 600 034.

3.The Commissioner of Income Tax(Appeals)-VI,
Chennai

4.The Assistant Commissioner of Income Tax,
Central Circle 1,(2)I/c
Chennai-34.

+1cc to Mr.N.V.BALAJI, ADVOCATE, SR.NO. 17834
+1cc to Mr.T.RAVIKUMAR, ADVOCATE, SR.NO. 17827

T.C.A.No.379 of 2014

SS(CO)
KKN 26.04.2021