IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.03.2021

CORAM:

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

T.C.A.No.61 of 2014

Commissioner of Wealth Tax,
Central Circle, Chennai. ...Appellant/Appellant

Vs.

P.Easwari ...Respondent/Respondent

Appeal preferred under Section 27 of the Wealth Tax Act, 1957, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 14.02.2013 in W.TA.No.40/Mds/2012 Assessment Year 2005-06 and against the Commissioner of Income-Tax(Appeals)-I, Chennai-34, dated 18/04/2012 in WTA No.6/2008-09 Assessment year 2005-06 and against the order of the Assistant Commissioner of Income-Tax Central Circle I(3), Chennai-34 dated 28/12/2007 in PAN/GIR No. AAEPE1790M Assessment year 2005-06.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Mrs.K.G.Usha Rani

For Respondent : no appearance

JUDGMENT

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

Heard the learned standing counsel appearing for the appellant- Revenue.

2.The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in W.T.A.No.40/Mds/2012 dated 14.02.2013.

3.The appeal was admitted on 08.07.2014 on the following substantial question of law:

> “Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the penalty under Section 18(1)(C) of the Wealth Tax Act and dismissing the appeal of the Revenue as not maintainable due to low tax

effect following the Instruction No.3/11 dated 09.02.2011 which is not applicable and without deciding the issue on merits?”

4.Mrs.K.G.Usha Rani, learned standing counsel appearing for the appellant – Revenue submitted that the Tribunal had erroneously dismissed the appeals preferred by the Revenue as Low Tax Effect following CBDT Instruction No.3/11 dated 09.02.2011, which is not applicable to the Wealth Tax cases. Further, the learned standing counsel submitted that subsequently, a Circular in Circular No.5/2019 dated 05.02.2019 has been passed by the Board to the effect that monetary limits for filing of appeals in Income Tax cases as prescribed in para-3 of the Circular No.3/2011, shall also apply to Wealth Tax Appeals through extension of the Circular to the Wealth Tax matters in a mutatis mutandis manner. Further, the learned standing counsel submitted that in view of the Circular No.5/2019, the subject matter of the present appeal comes within the Low Tax Effect, hence, the said appeal may be dismissed as withdrawn.

5.We agree with the submission made by the learned standing counsel appearing for the appellant – Revenue and hold that Circular No.3/2011 dated 09.02.2011 shall not apply to the matters relating to Wealth Tax and only Circular No.5/2019 dated 05.02.2019 shall have application in the case of Wealth Tax matters.

6.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, 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

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Sub Assistant Registrar

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To

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

2. The Commissioner of Income-Tax (Appeals)- I,
   Chennai - 34.

3. The Assistant Commissioner of Income Tax,
   Central Circle - I(3), Chennai-34.

NR(CO)
LS(27/07/2021)