IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.03.2021

CORAM:

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

T.C.A.No.75 of 2014

Commissioner of Income Tax,
Central Circle, Chennai. ...Appellant/Respondent

Vs.

S.Duraipandi & S.Thalavaipandian
C/o CNGSN & Associates,
No.22, Vijayaraghava Road,
T.Nagar, Chennai - 600 017. ...Respondent/Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 20.03.2013 in I.TA.No.2223/Mds/2012 Assessment Year 2002-03.

Against the order passed by the Commissioner of Income Tax (Appeals)II, Chennai-34, dated 28.09.2012 made in ITA.No.59 to 65/1-112/A-11 and against the order passed by the Assistant Commissioner of Income Tax, Central Circle III(4), Chennai-34, made in PAN.AAAAD4723G, dated 05.09.2011.

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

For Respondent : Mr.R.Sivaraman

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

Heard the learned counsel for the appellant.

2.The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in I.T.A.No.2223/Mds/2012 dated 20.03.2013.

3.The appeal was admitted on 22.07.2014 on the following substantial question of law:

> “Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in directing the

Assessing Officer to treat the cash seized to be first given credit as advance tax payment and then re-compute the interest u/s 234-A, 234-B and 234-C for all the assessment years 2002-2003 to 2008-09?”

4.It may not be necessary for us to answer the above substantial question of law, as the monetary limit in this appeal is lesser than the amount fixed by the Circular instructions issued by the Central Board of Direct Taxes in Circular No.3/2018 dated 11.07.2018. The said circular covers the issue regarding chargeability of interest also. In paragraph – 4 of the said Circular it has been stated that in case the chargeability of interest is the issue under dispute, the amount interested shall be the tax effect. Since the quantum of interest charged under Section 234-D of the Income Tax Act in the present case is lesser than Rs.50,00,000/- as stated in the Circular No.3/2018 dated 11.07.2018, the Tax Case Appeal is liable to be dismissed. Accordingly, the Tax Case Appeal is dismissed. The substantial question of law is left open for consideration in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS IV)

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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,
Central Circle, Chennai.

3. The Commissioner of Income Tax (Appeals)II, Chennai 34.

4. The Assistant Commissioner of Income Tax,
Central Circle III(4), Chennai 34.

+1 CC to Mr.T.R.SenthilKumar, Advocate, Sr.No. 14396.

T.C.A.No.75 of 2014

BS(CO)
LS(08/10/2021)