IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Tax Case Appeal No.494 of 2008

Commissioner of Income Tax
Chennai. . .. Appellant

Versus

Arihant Shelters (India) Ltd.
18, 12th Avenue, Ashok Nagar,
Chennai 600 083. .. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 31.10.2007 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, in I.T.A.No.738/Mds/06.

For Appellant : Mr.T.Ravikumar

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JUDGMENT

This Tax Case Appeal has been filed by the Appellant / Revenue, calling in question the correctness of the order dated 31.10.2007 passed by the Income Tax

Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No.738/Mds/03, relating to the assessment year 2002-03.

2.By order dated 02.07.2008, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> *"Whether on the facts and circumstances of the case, the Tribunal was right in holding that share application money in fictitious names cannot be treated as undisclosed income of the assessee, especially when the assessee has accepted part of the amount and offered the same for taxation?*

3. When the matter was taken up for consideration, the learned counsel for the Appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, 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). It is also submitted that the tax effect in this appeal is less than the threshold limit.

3. In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate cases. No

costs.

4. Registry is directed to return the original order, if any enclosed along with this Appeal after retaining the copy of the same with the court bundle.

[S.V.N, J.]   [C.S.N, J.]
28.11.2022

Internet : Yes
Index : Yes / No
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S. VAIDYANATHAN, J.
AND
C.SARAVANAN, J.

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To

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

2. Commissioner of Income Tax
   Chennai.

TCA No. 494 of 2008

28.11.2022