IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

TCA.No.1464 of 2010

The Commissioner of Income - tax - VII,
Chennai. ... Appellant/Respondent

Vs

Shri.D.Mangilal,
2/31, Old Mahabalipuram Road,
Navalur Road, Kelambakkam - 603 103.
PAN No.AAIPM6720H ... Respondent/Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, "A" Bench, Chennai, dated 05.02.2010 in I.TA.No.1293/Mds/2008. Appeal against the order of the Commissioner of Income Tax (Appeals)-IX, Chennai, dated 24.03.2008 in ITA.Nos.254 & 255/07-08 and against the order of the Joint Commissioner of Income Tax, Tambaram Range, Tambaram, dated 27.12.2007 in PA.No.AAIPM6720M.

For Appellant : Mr.Karthik Ranganathan, Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT
(Judgment of the Court was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 05.02.2010 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No.1293/Mds/2008, relating to the assessment year 2004-2005.

2. By order dated 21.02.2011, this court admitted the aforesaid tax case appeal on the following substantial questions

of law:

"(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the levy of penalty under Section 271D of the Income Tax Act, 1961, even though the assessee was compelled to disclosed such cash transaction during the search in the premises of the assessee?

(ii) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in law in deleting the levy of penalty under 271E of the Income Tax Act, 1961, even though the assessee was compelled to disclose such cash transaction during the search in the premises of the assessee?

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 appeal 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.

4.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 questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-V)

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Sub Assistant Registrar

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To

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

2. The Commissioner of Income - tax - VII,
Chennai.

3. The Joint Commissioner of Income Tax,
   Tambaram Range, Tambaram.

4. The Commissioner of Income Tax (Appeals) IX,
   Chennai.



KK(CO)
SU(07/04/2022)