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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.Nos.994 to 996 of 2010

Commissioner of Income Tax,
Central - II,
Chennai. ... Appellant in all TCAs

Versus

Shri S.Ravi ... Respondent in all TCAs

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the order dated 19.01.2010 passed by the Income Tax Appellate Tribunal, "A" Bench, Chennai, in I.T.A.Nos. 1784, 1785 and 1786/Mds/2008.

For Appellant	:	Mr.M.Swaminathan Senior Standing Counsel M/s.V.Pushpa, Standing Counsel in all TCAs
For Respondent	:	died

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COMMON JUDGMENT

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

These tax case appeals have been filed by the appellant / Revenue, challenging the common order dated 19.01.2010 passed by the Income Tax Appellate Tribunal, "A" Bench, Chennai, in I.T.A.Nos. 1784, 1785 and 1786/Mds/2008, relating to the respective assessment years 2002-03, 2004-05 and 2005-06.

2.By order dated 14.12.2010, this court admitted the aforesaid tax case appeals 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 holding that the sanction of the Panchayat President for division of agricultural lands into plots and another sanction for building separate units would amount to approval for any housing project as required under Section 80IB (10) and in further holding that the condition of the minimum area of 1acre for the project was satisfied? and*

(ii) Without prejudice to the preceding question, whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the order of the Commissioner of Income Tax (Appeals) deleting the disallowance of deduction under Section 80IB(10) claimed by the assessee in respect

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of the 'housing project' at Valar Nagar, Uthangudi, Madurai even though the condition that each residential unit should not have built-up area of more than 1500sq.ft. was not satisfied by the assessee?"

3. When the matters were 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 these appeals 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 appeals, wherein, the tax effect is said to be less than the monetary limit imposed, are dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

(R.M.D., J.) (M.S.Q., J.)
18.08.2022

Internet : Yes
Index : Yes / No

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R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

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To

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

2. The Commissioner of Income Tax,
   Central - II, Chennai.

3. The Deputy Commissioner of Income-tax,
   Central Circle - II,
   Madurai-625 002.

4. The Commissioner of Income Tax (Appeals)-II,
   Madurai.

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