IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

AND

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.714 of 2016

The Commissioner of Income Tax,
Chennai .. Appellant

Versus

A.P.Began (HUF)
14, Vellala Street,
Ayanambakkam,
Chennai 602 102. .. Respondent

Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 27.11.2015 in I.T.A.No.2702/Mds/2014.

For Appellant :Mr. T. Ravikumar
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, questioning the correctness of the order dated 27.11.2015 passed by the Income Tax Appellate Tribunal Madras 'C' Bench, Chennai in I.T.A.No.2702/Mds/2014.

2. On 05.10.2016, this tax case appeal was admitted by this Court on the following substantial questions of law;

> ' *1.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the sale proceeds of the property cannot be assessed in the hands of AR Pandurangan (HUF)?*
> *2. Whether the finding of the Tribunal is proper by holding that the provisions of Section 171 of the Income Tax Act would not apply to the estate of AR Pandurangan (HUF) since it was not assessed to tax hitherto?*
> *3. Whether on the facts and in the circumstances of*

the case, the Tribunal was right in not considering the fact that partial partition cannot be considered u/s.171 of the Income Tax Act?
4. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that capital gains cannot be assessed in the hands of larger HUF in the case of AR Pandurangan (HUF) or in the case of the assessee A.P. Began (HUF)?"

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.

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

R. MAHADEVAN, J.
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withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

[R.M.D,J.] [M.S.Q., J.]
11.07.2022

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Index : Yes / No

To
The Income Tax Appellate Tribunal,
Madras 'C' Bench, Chennai

<u>T.C.A.No.714 of 2016</u>