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

Tax Case Appeal No.298 of 2014

Commissioner of Income Tax
Central II,
Coimbatore.

...Appellant / Respondent

-vs-

M/s.Terrastonne Tiles,
(Old) Door No.24,
Erantkattu Jubilee Nagar,
Civil Aerodrome Post,
Coimbatore - 641 014.
PAN:AAEFT9606M.

...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 29.08.2013 passed by the Income Tax Appellate Tribunal, Madras “C” Bench, Chennai in I.T.A.No.1011/Mds/2013 against the order dated 28.03.2013 made in I / 263 / C-111 / 2012-13 on the file of the Commissioner of Income Tax, Central – III, Chennai for the Assessment Year 2008-09 and against the order dated 20.12.2010 made in PAN:AAEFT9606M on the file of the Assistant Commissioner of Income Tax, Coimbatore for the Assessment Year 2008-09.

For Appellant	:	Mr.Karthik Ranganathan Senior Standing Counsel
For Respondent	:	Mr.R.Kumar

J U D G M E N T

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

This tax case appeal has been filed by the appellant / Revenue, calling in question the correctness of the order dated 29.08.2013 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.1011/Mds/2013, relating to the assessment year 2008-2009.

2. On 13.08.2014, this appeal was admitted 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 quashing the order of the Commissioner of Income Tax under Section 263?
>
> (ii)Whether on the facts an in the circumstances of the case, the Income Tax Appellate Tribunal was right in ignoring the express provision contained in the proviso to Section 69C to the effect that, notwithstanding anything contained in the Act, the unexplained expenditure referred to in Section 69C is deemed to be the income of the assessee, shall not be allowed as deduction under any head of income?
>
> (iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Assessment order dated 20.12.2010 is not erroneous following the decision of the Madras High Court in the case of CIT Vs. Chensing Ventures reported in 291 ITR 258 (Mad) when the facts of the assessee's case, being covered under Section 69C of the Income Tax Act?"

3. When the matter was taken up for consideration, the learned senior standing 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 view of the above, 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 IX)

//True Copy//

Sub Assistant Registrar

msr

To

1. The Commissioner of Income Tax
   Central II, Coimbatore.

2. The Income Tax Appellate Tribunal,
   Madras "C" Bench.

3. The Assistant Commissioner of Income -tax,
   Central - II, Coimbatore.

4. The Commissioner of Income Tax (Central) - III,
   Chennai.

Tax Case Appeal No.298 of 2014

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