IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM :

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

T.C.A.No.503 of 2014

The Commissioner of Income Tax,
Chennai. ...Appellant/ Appellant

Versus

Shri R.Raman (HUF) ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "C" Bench, dated 05.08.2011 in I.TA.No.1028/Mds/2010 and against order passed by the Commissioner of Income Tax (Appeals) XII, Chennai – 600 034 dated 31.03.2010 made in ITA.No.424/07-08 and against the Assessment order passed by Assistant Commissioner of Income Tax Circle XV Chennai dated 31.12.2007 made in GIR.No/PAN.No.AAAHR1366J for Assessment year 2005-2006.

For Appellant : Mrs.V.Pushpa
Junior Standing Counsel

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, challenging the order dated 05.08.2011 passed by the Income Tax Appellate Tribunal, Bench 'C', Chennai, in I.TA.No.1028/Mds/2010, relating to the assessment year 2005-06.

2.By order dated 13.08.2014, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> "Whether on the facts and in the circumstances of the case the income Tax appellate Tribunal was right in deleting the addition of Rs.39,23,781/- on account of taxing the profit on sale of shares under the head business income against the claim made by

the assessee under the head capital gains."

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the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

av

To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Commissioner of Income Tax Appeals XII,
   Chennai - 600 034.

4. The Assistant Commissioner of
   Income Tax Circle XV
   Chennai.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.9481

T.C.A.No.503 of 2014

NK(CO)
RGA(01/03/2022)