IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

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

TAX CASE APPEAL NOS.546 TO 552 OF 2014

Commissioner of Income Tax Central I,
121, M.G.Road,
Chennai 600 034.

...Appellant in all TCAs

-vs-

V.Deenadayalavel

...Respondent in all TCAs

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order dated 22.06.2012 passed by the Income Tax Appellate Tribunal, "C" Bench, Chennai, in I.T.A.Nos.532 to 537/Mds/2012.

Against the Commissioner of Income Tax (Appeals)-I, 46, Mahatma Gandhi Road, Nungambakkam, Chennai-34, dated 12.12.2011 I.T.A.No.135 to 140/10-11, PAN/GIR/No.AAIPD2446F for the Assessment Year 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10 respectively and against the Assistant Commissioner of Income Tax, Central Circle IV(3), dated 29.12.2010, PAN/GIR.No.AAIPD2446F ward/circle/range:ACIT, Central Circle IV (3) status: Individual for the Assessment Year 2009-10, 2008-09, 2007-08, 2006-07, 2005-06, 2004-05, Respectively.

For Appellant : Mr.J.Narayanaswamy
Standing Counsel in all TCAs

For Respondent : died

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 22.06.2012 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in

I.T.A.Nos.532 to 537/Mds/2012, relating to the assessment years 2004-05 to 2009-2010, by raising the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in not considering that the income from “brokerage and commission” is not expressly mentioned in the Double Taxation Avoidance Agreement between India and Singapore and non-taxing the same is against Article 23 of the DTA Agreement?
>
> (ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in not giving opportunity to the Assessing officer to verify the details of the 'brokerage and commission' received by way of TT's were first received by the foreign Banks and then to the South Indian Bank at Chennai, which is against the principle of Rule 46A of the Income Tax Rules, 1962 ?”

2. 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.

3. 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

psa/av

To

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

2. The Commissioner of Income Tax Central I,
   121, M.G.Road,
   Chennai 600 034.

3. The Joint Commissioner of Income Tax(OSD) ,
   Central Circle IV(3), Chennai.

4. The Commissioner of Income Tax (Appeals)-I
   Chennai.

Tax Case Appeal Nos.546 to 552 of 2014

BP(CO)
PM/29/07/2022