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

T.C.A.No.578 of 2017

Principal Commissioner of Income Tax 2,
No.121, Mahatma Gandhi Road,
Chennai 600 034. ... Appellant

Versus

S.P.Nandakumar ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, "C" Bench, dated 23.06.2016 in I.TA.No.2137/Mds/2015.

Appeal against the order of the office of the Commissioner of Income Tax-(Appeals)-7, Room No.121, M.G.Road, Nungambakkam, Chennai-34 made in CIT(A)-7/ITA-006/14-15 order dated 12.10.2015, Assessment year 2011-2012.

against the order of the Income Tax Department, Income Tax Officer, Business ward XIV(4), Chennai-34 made in PAN.No.AAIPN2416R, order dated 31.03.2014 Assessment year 2011-2012.

| | | |
|---|---|---|
| For Appellant | : | Mr.Karthik Ranganathan<br>Standing Counsel |
| For Respondent | : | Mr.S.Sridhar |

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 23.06.2016 passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, in I.T.A.No.2137/Mds/2015, relating to the assessment year 2011-12.

2. By order dated 07.12.2017, this court admitted the aforesaid tax case appeal on the following substantial questions of law:

> "(i) Whether the Appellate Tribunal was right in holding that land, on which, the tea factory with its machinery is located and let out to a partnership firm for doing business can be treated as agricultural land and claimed exempt under Section 2(14)(iii)(a)(b) of the Income Tax Act? and
>
> (ii) Whether the Appellate Tribunal was right in holding the land as agricultural land, when Rule 8 of the Income Tax Rules provided for treating the income from sale of tea grown and manufactured by seller as business income?"

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-VII)

//True Copy//

Sub Assistant Registrar

psa/av

To

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

2. Principal Commissioner of Income Tax 2,
No.121, Mahatma Gandhi Road,
Chennai 600 034.

3. The Income Tax officer,
   Business Ward XIV(4), Chennai.

4. The Commissioner of Income-tax (Appeals) - 7,
   121, M.G.Road, Chennai.

+1cc to M/s.S.Sridhar, Advocate, S.R.No.34439

T.C.A.No.578 of 2017

AJB(CO)
SB(28/06/2022)