IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.149 of 2024

Commissioner of Income Tax
Non-Corporate
No.121, Nungambakkam High Road
Chennai 600 034. Appellant

.Vs.

S.Devi Respondent

Prayer : Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 09.08.2023 passed in Mis.Application No.110/Chny/2023.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

J U D G M E N T

(Delivered by R.SURESH KUMAR, J.)

This appeal has been preferred against the order passed by the Income Tax Appellate Tribunal, Chennai in Miscellaneous Application No.110/Chny/2023 in Income Tax Appeal No.428 of 2022 under Section 254(2) of the Income Tax Act, 1961 (in short 'the Act').

2. In fact the Tribunal passed the impugned order in I.T.A.No.428 of 2022 dated 04.01.2023. Against the said order, as according to the Revenue, there has been an error apparent on the face of the record, hence the said Miscellaneous Application under Section 254(2) of the Act was filed, which was dismissed through the impugned order.

3. Since the main order has already been passed, which is staring on the Revenue, it is open to the Revenue to challenge the said order by filing the regular appeal. Instead, raising a point against the dismissal of Miscellaneous Application filed under Section 254(2) of the Act may not be justified, as whether there has been an error apparent on the fact of the record in the main order itself can be questioned while canvassing the grounds to be urged by the Revenue at the time of filing the appeal. When that being the position, we are unable to entertain this appeal. Therefore, with a liberty to file an appeal against the main order, this appeal is dismissed. No costs.

(R.S.K., J.) **(C.S.N.,J.)**
05.08.2024

Index : Yes/No
Internet : Yes/No
KST

R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

KST

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