(2014) 04 MP CK 0003

In the Madhya Pradesh High Court

Case No : Mait No. 91/2004

Commissioner of Income Tax APPELLANT

Vs

Smt. Reena Mongia RESPONDENT

Date of Decision : 30-04-2014

Acts Referred:

Citation : (2014) 04 MP CK 0003

Hon'ble Judges : Vimla Jain, J;Rajendra Menon, J

Bench : Division Bench

Advocate : Sanjay Lal, Shri Shushrut Dharmadhikari, Shri Sanjeev Tuli, and Shri B.S. Thakur, Learned Counsel for appellants, Advocate for the Appellant; L.L. Sharma, Shri Yogesh Sharma, and Shri Pratul Shandilya Learned Counsel for Respondents, Advocate for the Respondent

Judgement

Rajendra Menon, J.—As common questions of law and facts are involved in all these appeals, all these appeals are being decided by this common order.

2. Learned Counsel for the assessee invites our attention to circular No. 1979 dated 27.3.2000, issued by the Central Board of Direct Taxes, and points out that as the instructions issued by the Board prohibits filing of an appeal where the quantum of tax is less than Rs. 2 Lacs, these appeals would not be maintainable.

3. Referring to the averments made by the appellants themselves, in the memo of the appeal, learned counsel points out that the tax liability for each year as is indicated in the appeal, is less than Rs. 2 Lacs and, therefore, the appeals would not be maintainable.

4. In support of his contention, learned counsel invites our attention to orders passed under similar circumstances by a Division Bench of this Court on 12.2.2013, in M.A.I.T. Nos. 18/2005 and 22/2005 [Commissioner of Income Tax Vs. Ramkishore Nandkishore] to say that the appeals are not maintainable.

5. In the order passed in the case of Ramkishore Nandkishore (supra), a Coordinate Bench of this Court has taken note of the circular issued by the

Department and after considering certain judgments rendered by a Division Bench of this Court in the case of Commissioner of Income Tax Vs. Suresh Chand Goyal, ; and, Commissioner, Income Tax Vs. Ashok Kumar Manibhai Patel and Co., , has decided the question in the following manner:

The aforesaid judgment specifically lays down that any appeal, if tax effect less than Rs. 2 Lakhs, could not have been filed by the Department.

From the perusal of the instructions issued by the Board, we find that the Board had issued directions that the appeals will be filed only in cases where the tax effect exceeds Rs. 2 Lakhs in the matter of High Court in appeals u/s. 260-A or Reference u/s. 256(2). The aforesaid circular is binding on all the authorities under the Board including the appellant Commissioner of Income Tax, Jabalpur. The Board has taken this decision in continuation to earlier directions issued by the Board on 28.10.1992 where the monetary limit was Rs. 50,000/-. Now, in view the changed circumstances, as directed by the Board by instruction dated 27.3.2000, it is apparent that the appeal or reference below Rs. 2 Lakhs, could not have been filed. The instructions of the Board are binding to all the authorities working under the Board including the appellant. This appeal which was filed on 10.1.2005 is fully covered by the instructions issued by the Board on 27.3.2000, and this appeal could not have been filed. The aforesaid position has been clarified by two Division Bench of this Court, in Suresh Chand and Ashok Manibhai (supra).

In the result, this appeal is found incompetent and is dismissed with no order as to costs.

6. Keeping in view the aforesaid and considering the fact that in all these cases also the orders impugned were passed by the appellate authorities and the tax liability is less than Rs. 2 Lacs, the Department had no right to file the appeal.

7. Accordingly, all these appeals being found incompetent, are dismissed.

