THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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I.T.T.A.No.350 of 2015

JUDGMENT: (per Hon'ble Sri Justice Ramesh Ranganathan)

This appeal under Section 260-A of the Income Tax Act, 1961 (for short "the Act") is preferred against the order passed by the Tribunal in I.T.A.No.334/V/2012 dated 03.07.2014.

Against the order passed by the Assessing Authority levying interest for failure to deduct tax at source, and in levying interest under Section 201(1A) of the Act for a sum of Rs.5,95,985/-, the Executive Engineer, Panchayatraj Department, Government of Andhra Pradesh, carried the matter in Appeal to the Commissioner of Income Tax (Appeals) who, by his order dated 31.07.2012 following the Circular of the CBDT dated 27.01.1998, held that there was no need to deduct tax on the payments made under Assembly Constituency Development Programme (ACDP), as the beneficiaries have constituted themselves into Village Committees, Self-help groups etc and had executed the work, having taken the same from the State Government; there was no contract *per se* as the beneficiaries themselves had executed the work, and there was no middlemen or a contractor, in effect; and, therefore, the provisions of Section 194C of the Act were not attracted and the Assessing Officer was not justified in raising the demand under Section 201(1) of the Act in respect of such payments. The Assessing Officer was directed to verify the claim of the assessee to the effect that all the contracts had been executed by the beneficiaries themselves through the medium of Village Committees, self-help groups etc. and, thereafter, to reduce the demand raised under Section 201(1) of the Act with regard to the works executed under the ACDP scheme by the beneficiaries through the medium of Village Committees, Self-help groups etc.

Section 194C(1) of the Act provides that any person responsible for paying any sum to any resident for carrying out any work in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct tax at source.

Section 194C(1) of the Act is attracted only in cases where payment is made pursuant to a contract between the contractor and a specified person. The contention of the assessee was that no contract was involved for execution of works under the ACDP scheme, as the beneficiaries had formed themselves into Village Committees and Self-help groups, and were executing works on their own. All that the Commissioner and the Tribunal have held is that the Assessing Authority should verify whether, in fact, these works were executed by the beneficiaries forming themselves into Village Committees or Self-help groups and, in such an event, to reduce the amount of interest levied under Section 201(1) of the Act. No question of law, much less a substantial question of law, arises for consideration in this appeal necessitating interference under Section 260-A of the Act.

The appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SEETHARAMA MURTI, J

Date:18.11.2015.

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<u>THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN</u>

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