IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice D.Krishnakumar

Tax Case Appeal No.115 of 2015

The Commissioner of Income Tax,
Trichy ... Appellant/Appellant

Vs

T.R.Swaminathan,
25 Odayar Bungalow,
Gandhi Nagar, Kumbakonam ... Respondent/Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 23.07.2014, in ITA No.391/Mds/2013 against the order of the Commissioner of Income Tax (Appeals, Trichy dt.20.12.2012 against the order of the Income Tax Officer (OSD) Circle, I, Kumbakonam, order dt.29.12.16.

For appellant : Mr. S.Rajesh, Standing Counsel, for Income Tax.
For respondent : Mr. S.Sridhar

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J U D G M E N T
(Judgment of the Court was made by S.Manikumar, J.,)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, 'D' Bench, Madras, dated 23.07.2014.

2. The substantial question of law raised in the instant appeal reads thus:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that Section 40 (a) (ia) can be invoked only to the amounts of expenditure which are payable as on last day of the financial year and not the expenditure incurred during the financial year? "

3. Mr.S.Rajesh, learned Standing Counsel for Income Tax, submitted that the tax implication in the instant appeal is less than the ceiling limit fixed by the Circular bearing No.21 of 2015, dated 10/12/2015. He further submitted that, as per the Circular, Tax Case Appeals have been instructed to be withdrawn, subject to the matters covered under the circular.

4. Placing on record the above submissions, while dismissing the Tax Case Appeal No.115 of 2015, as withdrawn, substantial question of law raised is left open. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To
1.The Income Tax Officer,
Appellate Tribunal,
Madras D Bench, Chennai-34.

2.The Commissioner of Income Tax Appeals,
No.44, Williams Road, Cantenment, Trichy.

3.The Income Tax Officer (OSD)
Circle I, Kumbakonam.

+1 cc to Mr.S.Rajesh,advocate,sr.49110

+1 cc to Mr.S.Sridhar,advocate,sr.49267.

vgi(co)
krd 16/9

Tax Case Appeal No.115 of 2015