THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

ITTA.No.652 & 658 of 2015

COMMON JUDGMENT: (Per the Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri B.Narasimha Sarma, learned Senior Standing Counsel for Income Tax, and Sri S.Ravi, learned Senior Counsel appearing on behalf of the respondent-assessee and, with their consent, the writ petition is disposed of at the stage of admission. These two appeals are preferred by the Revenue against the orders passed by the Income Tax Appellate Tribunal, Hyderabad.

The Revenue raised a specific ground, before the Tribunal, that the Commissioner of Income Tax (Appeals), Hyderabad had erred in granting the threshold limit of Rs.2,500/- on each transaction for the assessment years 2007-08 and 2008-09, and in deleting the addition made under Section 194BB of the Income Tax Act, 1961 (for short "the Act"). The Tribunal, however, proceeded on the premise that what was disallowed by the assessing authority was the aggregate of the transactions; and held that it is only if each payment exceeds a sum of Rs.2,500/- can tax be deducted at source and not otherwise.

The question before the Tribunal was not whether tax deduction at source is applicable for each payment exceeding Rs.2,500/-, or payments exceeding Rs.2,500/- in aggregate. What was put in issue by the Revenue before the Tribunal was that, even for each individual payment exceeding Rs.2,500/-, whether the assessee was entitled to deduct Rs.2,500/- as the threshold limit, and deduct TDS only for the balance. This question of law, though specifically raised by the Revenue before the Tribunal, has not even been considered, let alone answered. We consider it appropriate, therefore, to set aside the orders under appeal, and remand the matter to the Tribunal to examine this question afresh in accordance with law.

The appeals are, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

13th July 2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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Date: 13.07.2016

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