In the High Court of Judicature at Madras

Dated : 13.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice K.RAVICHANDRABAABU

Tax Case Appeal No.668 of 2017

The Commissioner of Income Tax,
Circle I, Nagercoil. ...Appellant/Appellant

Vs

M/s.Kanyakumari Nidhi Limited
(formerly known as Kanyakumari
Benefit Fund Limited), Nagercoil-1. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.6.2017 made in ITA.No.3111/Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2012-13.

For Appellant : Mr.M.Swaminathan, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Senior Standing Counsel for the Revenue.

2. This appeal has been filed by the Revenue raising the following substantial questions of law :

> "i. Whether the Tribunal was right in law in holding that the provisions of Section 40(a)(ia) of the Income Tax Act are not attracted for non submission of declarations in Form 15G/15H as referred in Section 197A of the Income Tax Act,
> (2)
> before the Chief Commissioner or Commissioner within the time stipulated in Section 197A(2) of the Income Tax Act read with Rule 29C of the Income Tax Rules ? and
>
> ii. Whether the Tribunal is correct in law in holding that the provisions of Section 40(a)(ia) are not applicable, when

the assessee has made the entire payments during the year itself and nothing is outstanding or yet to pay ?"

3. The Revenue has challenged the order passed by the Tribunal dated 01.6.2017, by which, the appeal filed by the Revenue was dismissed.

4. We find that the Tribunal has rightly held that the once the assessee obtained Form 15G from the payee, the assessee has no legal obligation to deduct tax on the payment made to the payee. The Tribunal also referred to an earlier decision of the Mumbai Bench, which was identical on facts. Thus, the decision of the Mumbai Bench referred to in the impugned order has attained finality, as no further appeal has been filed by the Revenue. On facts, the Tribunal has rightly come to the conclusion and dismissed the appeal filed by the Revenue. We find that no substantial question of law arises for consideration in this appeal.

5. Accordingly, the above tax case appeal is dismissed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai.

2.The Commissioner of Income Tax(Appeals)-3,
Madurai.

3.The Income Tax Officer,
Ward-II, Nagercoil.

4.The Secretary,
Central Board of Director, Tax cases,
New Delhi.

+1cc to Mr.M.Swaminathan Advocate SR.No.89229

TCA.No.668 of 2017

NMI(CO)
GN(08/01/2018)