IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case No.2023 of 2008

The Commissioner of Income Tax
Chennai. ...Appellant /Appellant

Vs.

M/s.SICAL Logistics Ltd.,
South Avenue House,
73 Armenian Street,
Chennai 600 001. ...Respondent/Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 27.5.2008 made in ITA No.2319/Mds/07 and against the order of the Commissioner of Income Tax (Appeals)-V and made in ITA No.6124/2005-06 dated 15.06.2007 for the Assessment year 1998-99 and against the order of the Deputy Commissioner of Income Tax Company Circle V(1) chennai and made in PA No.AA50045 A(33789B/1998-99, dated 29.03.2005 the assessment year 1998-99.

For Appellant : Mr.T.R.Senthilkumar,
Senior Standing Counsel

For respondent : Mr.R.Venkataraman for
M/s.Subbaraya Aiyar Padmanabhan

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

This Tax Case has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 27.5.2008 made in ITA No.2319/Mds/07, by raising the following substantial question of law:

> "Whether, on the facts and circumstances of the case, the Tribunal was right in holding that dry dock/Special survey expenditure cannot be withdrawn in a rectification proceeding under Section 154 of the Act?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate case.

ssk

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax,
   Appeals V Tribunal, Madras.

2. The Income Tax Appellate Tribunal,
   Bench 'C' , Chennai.

3. The Deputy Commissioner of Income Tax,
   Company Circle V Chennai.

4. The Commissioner of Income Tax,
   Chennai.

TC No.2023 of 2008

VGII-(CO)
KAK(15/02/2019)