IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.467 of 2018

Commissioner of Income Tax,
Corporate Circle,
Madurai. ... Appellant

-vs-

M/s.Ontime Transport Company Limited,
(Now Known as Ontime Industrial
Services Limited)
47, PSK Nagar,
Rajapalayam-626 108.
PAN:AAACO 8508 Q ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 25.01.2018 in ITA No.91/Mds/2017 for the assessment year 2010-11 against the order of the Commissioner of Income Tax(Appeals I) Madurai dated 20.10.2016 made in I.T.A. 0025/2016-2017 against the Assessment order of Deputy Commissioner of Income Tax, Corporate Circle 2, Madurai dated 31.03.2015.

For Appellant : Mr.M.Swaminathan,
Standing Counsel for the Revenue

J U D G M E N T

[Delivered by T.S.Sivagnanam, J.]

Heard Mr.M.Swaminathan, learned Standing Counsel for the appellant / Revenue.

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

"1.Whether the Income Tax Appellate Tribunal is correct in law in not confirming the disallowance u/s 40(a)(ia) made by the Assessing Officer when assessee did not comply with requirements of sub-section 7 of section 194C which existed since 01.10.2009?

2.Whether the Income Tax Appellate Tribunal is correct in law in holding that the Form for

> furnishing the details of person to whom payments were made but TDS was not deducted was notified by CBDT only on 15.10.2010 without appreciating that on 15.10.2010 no new Form was notified by CBDT to furnish such particulars and that on 15.10.2010 only sub-Rule 4 was inserted in Rule 31A as an interpretation of provisions of sub section 7 of section 194C, which existed since 01.04.2009?"

3.The Tribunal, in the impugned order, has held as follows:-

> "4.We have considered the rival submissions on either side and perused the relevant material available on record. Section 194C(7) of the Act requires that the assessee has to furnish information in the prescribed form. It is not in dispute that the CBDT notified the form only on 15.10.2010 which is admittedly applicable for the quarterly statement due on 15.10.2010 and not before that. Therefore, the CIT(Appeals) has rightly deleted the addition, hence, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed."

4.We find that before the Tribunal, the Revenue has not pointed out the grounds now sought to be canvassed before us. In any event, we find that the questions of law raised are not substantial questions of law, especially when there is no such pleading raised before the Tribunal.

5.The Hon'ble Supreme Court in Hero Vinoth vs. Seshammal reported in (2006) 5 SCC 545, held that to be a question of law "involving in the case" there must be first a foundation for it laid in the pleadings and the question should emerge from the sustainable findings of fact arrived at by the court of facts and it must be necessary to decide that question of law for a just and proper decision of the case.

6.In the light of the factual findings, which we recorded in the preceding paragraphs, the above questions of law does not arise for consideration. Accordingly, the tax case appeal filed by the Revenue is dismissed. No costs.



s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

abr

To

1.The Commissioner of Income Tax,
Corporate Circle,
Madurai.

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

3.The Commissioner of Income Tax (Appeals)-1,
Madurai

4. The Deputy Commissioner of Income Tax
Corporate Circle 2, Madurai.

+1 CC to Mr.M. Swaminathan, sr 49912.

T.C.A.No.467 of 2018

KGK(CO)
SP(10/08/2018)