IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal No.275 of 2018

The Commissioner of Income tax,
Chennai. ... Appellant

-vs-

M/s.Bally Technologies India Pvt.Ltd.,
Unit 1 & 4, 11th Floor,
Crest Building, International Tech Park, Chennai,
CSIR Road, Taramani,
Chennai-600 113. ... Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 25.09.2017 made in ITA No.1720/Mds/2017. Against the Order of the Principal Commissioner of Income Tax (Appeals) - I, Chennai - 34 dated 04/05/2017 in ITA.No. 182 (IT(A) - 1/2015-16 and against the Order of the Deputy Commissioner of Income Tax corporate Circle 1 (2), Chennai - 34 dated 20.03.2015 for the assessment year 2011-12.

For Appellant :: Mr.T.Ravikumar,
Standing Counsel

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 25.09.2017 made in ITA No.1720/Mds/2017, and this Court entertained the appeal on 19.06.2018 on the following substantial question of law:

> "Whether the learned Tribunal erred in law and misappreciated Section 36(1)(va) read with Section 2 (24)(x) in deleting the disallowance made under Section 43B on account of belated payment of

employee's contribution towards Provident Fund and Employees State Insurance?”

2.When the matter is taken up for admission, the learned Standing Counsel appearing for the appellant brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.07.2018 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 less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial question of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

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

2. The Principal Commissioner of Income Tax (Appeals) I,
Mahatma Gandhi Road, Nungambakkam, Chennai - 34.

3. The Deputy Commissioner of Income Tax,
Corporate Circle i (2), Chennai - 34.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 75610
+1cc to Mr.Subbaray Aiyar, Advocate, S.R.No. 76177

Tax Case Appeal No.275 of 2018

MP(CO)
GN(04/12/2018)