IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Tax Case Appeal No.704 of 2018

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

Vs.

M/S.Quasar Consultancy Pvt. Ltd.
33, Balammal building
1st floor, Burkit road
T.Nagar, Chennai-600 017. .. Respondent

PAN : AAACQ0062D

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D-SMC' Bench, Chennai, dated 08.01.2018 in ITA No.2344/Mds/2017 against the order dated 30.06.2017 in ITA no.24/2016-2017/CIT(A)-3 of the commissioner of income tax (Appeals)-3- Chennai 34 against the Income Tax Officer , Corporate ward -5(3), Room No.419,Main Building iv Floor 121,MD Road,Numgambakkam,chennai dated 28/02/2016 in PAN/GIR NO.AAACQ0062D the Assessment year 2013-14.

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For Appellant : Ms.R.Hemalatha
Standing Counsel

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J U D G M E N T

(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 'D-SMC' Bench, Chennai, dated 08.01.2018 in ITA No.2344/Mds/2017, by raising the following substantial questions of law:

"(i) Whether the Assessee whose contribution made towards provident fund and ESI are not consonance with the Explanation to Section 36(1)(va) is entitled to claim deduction of the same under Section 43B of the I.T.Act?

(ii) If the answer to the above question is in the negative, cannot the Revenue treat said amount as Income under Section 2(24)(x) of the I.T.Act, 1961?

(iii) Is not the order of the Tribunal on the issue wrong and lacks perspective of non consideration of the said issue under Section 36(1)(va) read with Section 2(24)(x) of the I.T.Act?

(iv) Whether the Tribunal ought to have followed the decision of the Madras High Court in the case of Madras Radiator and Pressing Ltd reported in 129 Taxman Page 709 wherein it had been held that Employee's contribution received by the employer would be income in its hands and that would be allowed as permissible deduction under clause (va) of Section 36(1) while computing the business income under Section 28 provided the Assessee credits the same to the relevant fund within the due dates specified under the respective Acts?”

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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 11.07.2018 wherein it is stipulated that appeal shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

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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 questions of law for determination in an appropriate case. No costs.

kj

Sd/-/-
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

To
1.The commissioner of income tax , Chennai 34
2.The Income tax Appellate Tribunal,- Chennai D,SMC Bench
3.The Income Tax Officer , Corporate ward -5(3), Room No.419,Main Building iv Floor 121,MD Road,Nungambakkam,chennai

+1cc to Mr.T.RAVI KUMAR , Advocate SR.No. 66003

Tax Case Appeal No.704 of 2018

ASK(09/11/2018)

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