IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1.2.2019

CORAM

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

Tax Case Appeal No.1071 of 2009

Commissioner of Income Tax
Chennai III. Appellant

Vs.

M/s.R.K.Swamy BBDO Pvt. Ltd.,
604, Mount Road, Chennai 600 006. Respondent

Tax Case 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 9.1.2009 made in ITA No.2340/Mds/2007 for the Assessment year 2004-05 against the Commisioner of Incoemt Tax(Appeals)V Chennai. Dated 22.06.2007 made in ITA.NO.541/2006-2007 for the assessment year 2004-2005 against the Joint Commisioner of Income tax Company Range V, Chennai. Dated 21.12.2006 made in PAN .AAACR3511 for the assessment year 2004-2005.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel
For respondent : Mr.A.S.Sriraman for
Mr.S.Sridhar

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,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, 'B' Bench, Chennai, dated 9.1.2009 made in ITA No.2340/Mds/2007, by raising the following substantial question of law:

> "(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the disallowance of part of the rent paid to the associate concern M/s.Thiruvengadam Investments (P) Ltd., being payments made to a person specified under Section 40A(2)(b), found to be excessive on the basis of the rent paid by other tenants of the same building, was not

justified and in confirming the deletion of the said disallowance?"

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.

Sd/--
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.
To
1. Commissioner of Income Tax
Chennai III.

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

3. The Deputy Commissioner of
Income Tax,
Company Circle V, Chennai 600 006.

4.The Joint Commisioner of Income tax, Company Range V, Chennai.

5.The Commisioner of Incoemt Tax(Appeals)V Chennai.

+1cc to Mr.M.Swaminathan , Advocate SR.No. 8629

TCA No.1071 of 2009

A.SK(26/02/2019)