IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.3.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case No.2101 of 2008

Commissioner of Income Tax
Chennai. Appellant/Appellant

Vs.

M/s.N.E.P.C.India Limited,
No.36, Wallajah Road,
Chennai 600 002.
G.I.No./PA No.AAACN 1567E Respondent/Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 7.3.2008 made in ITA No.1264/Mds/2002 against the order of Commissioner of Income Tax (Appeals) Central I, Chennai dated 12.03.2002 in I.T.A. No. 179/2001-2002 against the Assessmeny order dated 30.03.1999 and made in P.A. No. AAACN1567E by the Deputy Commissioner of Income Tax, Central Circle I(1) Chennai for the Assessment year 1996-1997.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

For respondent : Mr.R.Sivaraman

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, 'B' Bench, Chennai, dated 7.3.2008 made in ITA No.1264/Mds/2002, by raising the following substantial questions of law:

"i) Whether, on the facts and circumstances of the case, the Tribunal was right in allowing a deduction of Rs.13,24,183/- representing purchase of air manuals, air-conditioners, etc., as revenue expenditure?

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ii) Whether, on the facts and circumstances of the case, the Tribunal was right in allowing deduction of Rs.6,29,104/- being the disallowance made under Section 40A(3) of the Act?

iii) Whether, on the facts and circumstances of the case, the Tribunal was right in allowing deduction being the disallowance on account of delayed remittance of Employees' Contribution to Provident Fund and Employer's contribution to Provident Fund without actually verifying the correctness of the dates of payment?

iv) Whether, on the facts and circumstances of the case, the Tribunal was right in allowing the expenditure towards alteration of factory building as revenue expenditure?"

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 questions of law for determination in an appropriate case.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.

To

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

2. Commissioner of Income Tax
Chennai.

3. The Commissioner of Income Tax (Appeals)
Central I, Chennai 600 034.

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4. The Deputy Commissioner of
Income Tax,
Central Circle I(1), Chennai.

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