IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM

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

Tax Case Appeal No. 872 of 2009

Commissioner of Income Tax
Chennai. Appellant / Appellant

Vs.

M/s. Venkat Shoes Private Limited
47, Thiruvangadam Street,
Periamet
Chennai - 600003 Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 06.03.2009 made in ITA No.996/Mds/2008, against the order of Commissioner of Income Tax (Appeals)-VIII, Chennai made in ITA No.283/2007-08 dated 21/02/2008 against the order of Assistant Commissioner of Income Tax Company circle III (4) Chennai in GIR No/PAN No.255-VAABCV 2878B dated 28/09/2007.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar

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, by raising the following substantial questions of law:

"(i) Whether on the facts and circumstances of the case, the Tribunal was right in holding that tax need not be deducted at source on the payment of commission made to a non resident, who is not a company?;

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee was right in not deducting tax at source on its own, deciding that there is no element of taxable income in the amount paid to the foreign party, contrary to the judgement of the Supreme court in the case of Transmission Corporation of Andhra Pradesh Limited., (239 ITR 587)?"

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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax-I,
Chennai.

3.The Assistant Commissioner of Income Tax,
Company Circle -III(4), Chennai.

4.The Commissioner of Income Tax Appeals VIII,
Chennai.

+1cc to Mr.Philip George, Advocate Sr.20802
+1cc to Mr.M.Swaminathan, Advocate Sr.21009

Tax Case Appeal No. 872 of 2009

rgn[co]
srg 04/06/2019