IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM :

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

Tax Case Appeal Nos.390 and 391 of 2010

The Commissioner of Income-tax (TDS),
Chennai. ... Appellant in both appeals

Vs.

Black Thunder Theme Park Ltd.,
36, Ooty Main Road, Mettupalayam.
(PAN No.CMBB03100G) ... Respondent in both appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 31.07.2009 made in ITA Nos.379 and 380/Mds/2009,

against the Order of the Commissioner of Income-Tax (Appeals)-II, Coimbatore in IT Appeal Nos.46 & 47 C/08-09 dated 3/02/2009 for the Assessment Year 2001-02, 2002-03 against the order of the Income Tax Officer, TDS Ward I(1), Coimbatore dated 17/03/2003 respectively for the Assessment Year respectively.

For Appellant : Mr.V.Rajesh
Jr. Standing Counsel
(in both)

For Respondent : Mr.Sriraman
for M/s.S.Sridhar
(in both)

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI,J.)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law holding that the levy of interest under Section 201 (1A) can be charged upto 15.01.2003, even though that the interest under Section 201 (1A) is chargeable upto the date of payment of tax by the recipient in respect of the income on which no TDS was made by the payer/deductor?"

2. When the matters are taken up for hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 08.08.2019 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.1 Crore.

3. In these cases, the tax effect are said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue are dismissed as not pressed, keeping open the substantial question of law for determination in an appropriate cases.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

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

2. The Commissioner of Income Tax (Appeals)-II,
Coimbatore.

3. The Income Tax Officer,
TDS Ward ((I), Coimbatore.

+1cc to Mr.S.Sridhar, Advocate Sr.80413

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srg 04/11/2019