IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.896 of 2010

Director of Income Tax
(International Taxation)
Chennai. .. Appellant

Vs.

M/s.Prasad Production Ltd.,
27-28, Arunachalam Road,
Saligramam,
Chennai 600 073. .. Respondent

Appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench dated 09.04.2010 - ITA No.663/Mds/2003 Assessment year 2002-2003.

Against the order of the Commissioner of Income Tax Appeals dated 08.01.2003 in ITA.NO.83/2002-2003 against the order of the Income Tax Officer(International Taxation)II, chennai for the Assessment Year 2002-2003 dated 17.09.2001.

For Appellant : Mr.Karthick Rangarajan
Senior Standing Counsel. I/T.

For Respondent : Mr.R.Vijayaraghavan for
M/s.Subraya Aiyar Padmanaban

J U D G M E N T

(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, Chennai 'B' Bench, dated 09.04.2010, in ITA No.663/Mds/2003 Assessment year

2002-2003, by raising the following substantial questions of law :

i) "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the payment of USD 9,02,000 held by the Assessing Officer as fees for technical services was only part of the equipment price including the service for installation and training and the payment was outside the purview of Tax Deduction at Source i India?

2) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that if the remitter was under a bona fide belief that no part of the payment to the non-resident entity was chargeable to tax; the remitted was not under any statutory obligation to deduct tax at source on any part of the payment and also the remitter need not make an application to the Assessing Officer u/s.195 (2) of the Act?

3) Whether prejudice to the preceding question, whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the assessee could have entertained a bona fide relief that no part of the payment made to the non-resident entity was chargeable to tax under the Income Tax Act?

2. When the matter is taken up for hearing, learned Standing Counsel for the Department brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019, dated 8th August,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.1,00,00,000/- (Rupees One Crore).

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 withdrawn,

keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kkd

To

THE REGISTRAR,INCOME TAX APPELLATE TRIBUNAL,
CHENNAI 'B' BENCH,
CHENNAI.

2.THE COMMISSIONER OF INCOME TAX(A)-XI, CHENNAI34

3.THE INCOME TAX OFFICER(INTERNATIONAL TAXATION)II, CHENNAI

+1cc to M/S.SUBBRAUA AIYAR , Advocate SR.No. 76791

TCA No.896 of 2010

A.SK(15/10/2019)