IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.148 of 2013

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

M/s.Sun Engineering Constructions,
Plot No.28, 2nd Street Extension,
Jai Nagar, Arumbakkam,
Chennai-600 106. ... Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 11.10.2012, made in I.T.A.No.1328/Mds/2012 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2008-09,

against the order dated 15/03/2012 made in ITA No.78/10-11 (A)-VIII passed by the Commissioner of Income Tax (A)-VIII against the order dated 24/12/2010 passed by the Assistant Commissioner of Income Tax Circle V Chennai in PAN/GIR No.AAIFS8529G.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

: assisted by Ms.V.Pushpa
Standing Counsel

For Respondent : Mr.A.S.Sriraman for Mr.S.Sridhar



JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against the order dated 11.10.2012, made in I.T.A.No.1328/Mds/2012 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2008-09.

2.The appeal has been filed raising the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the disallowance made u/s 40(a)(ia) in respect of labour charges paid, without deducting TDS, on the ground that the assessee had already paid the amounts and nothing remained payable and Sec.40(a)(ia) is applicable only where the amount remains payable and not to amounts paid?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant - and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned Counsel for the respondent.

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019, dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial question of law framed is left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

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

2.The Assistant Commissioner of Income Tax,
Business Circle-V, Chennai-600 034.

3.The Commissioner of Income Tax (Appeals-VIII),
2nd Floor, Main Building, 121, M.G.Road,
Nungambakkam, Chennai-600 034.

+1cc to Mr.S.Sridhar, Advocate Sr.72493
+1cc to Mr.Swaminathan, Advocate Sr.73012

T.C.A.No.148 of 2013

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