IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.1.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

TAX CASE APPEAL NOS.125 AND 126 OF 2016

The Commissioner of Income Tax, Coimbatore ...Appellant

Vs

M/s.Ace Engineers, Coimbatore-107 ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 29.4.2015 respectively in ITA.Nos.55 and 56/Mds/2015 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench respectively for the assessment years 2011-12 and 2012-13. against the orders dated 17.11.2014 passed by the Commissioner of Income Tax (Appeals)-I, Coimbatore in Appeal No.392/13-14 and in Appeal NO.391/13-14 against the Assessment orders dated 29.11.2013 passed by the Income Tax Officer, Ward II(2) for the Assessment Years 2011-12 and 2012-13.

For Appellant : Mr.T.Ravikumar, SSC
For Respondent : Mr.S.Sridhar

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned Standing Counsel for the appellant.

2. These appeals by the Revenue challenge the common order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeals were admitted on 08.3.2016 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in deleting that Section 40(a)(ia) is applicable only on those amounts 'payable' and not those amounts 'paid' during the year without deducting tax at source ? And

ii. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in following Allahabad High Court judgment in the case of Vector Shipping Services P. Ltd., when the facts of the present case are distinguishable ?”

3. The Revenue seeks to withdraw these appeals on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, these appeals are dismissed as withdrawn and the substantial questions of law framed are left open. In the event, in any of the cases, the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

RS

To

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

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

3. The Income Tax Officer,
Ward II(2), Coimbatore.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.362
+1cc to M/S.R.Hemalatha, Advocate, S.R.No.287

TCA.Nos.125 & 126 of 2016

SS(CO)
CS/04/03/2019