IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.119 of 2018

Commissioner of Income Tax,
Trichy. ...Appellant/ Appellant

Vs

M/s.Safeway Dredging Enterprise,
No.7, Sattaiappar East Street,
Nagapattinam - 611 011.
PAN: ABHFS8145A ...Respondent/ Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 15.07.2016 made in ITA.No.1447/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2010-11 against the order of the Commissioner of Income Tax Appeals, Tiruchirapalli dated 30.01.2014 made in ITA.NO.149/2013-2014/CIT (A)TRY for the Assessment Year 2010-2011

Against the order of the Deputy Commissioner of Income Tax Circle I,Thanjavur dated 28.03.2013 made in PAN/GIR NO.ABHFS8145A

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC
For Respondent : Mr.R.Sivaraman

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, learned Standing Counsel appearing for the appellant/revenue and Mr.R.Sivaraman, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 15.07.2016 made in ITA.No.1447/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2010-11.

3.This appeal has been filed by raising the following substantial question of law :

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that Section 40a(ia) can be invoked only to the amounts of expenditure which are payable as on last day of the financial year and not the expenditure paid during the financial year?"

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 08.8.2019 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)

//True Copy//

Sub Assistant Registrar

cse
To

1.THE INCOME TAX APPELLATE TRIBUNAL, CHENNAI 'D' BENCH.
2.THE COMMISSIONER OF INCOME TAX APPEALS, TIRUCHIRAPALLI
3.THE DEPUTY COMMISSIONER OF INCOME TAX CIRCLE I,THANJAVUR
+1CC TO MR.M.SWAMINATHAN , ADVOCATE SR.NO. 74898

TCA.No.119 of 2018

A.SK(13/11/2019)