IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.2.2019

CORAM

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

Tax Case Appeal No.163 of 2016

Commissioner of Income Tax-4
121 Mahatma Gandhi Road, Chennai. Appellant/ Appellant

Vs.

M/s.Kamadhenu Business Fortune Ltd.,
9 Vishnu Avenue,
Virugambakkam, Chennai 600 092.
PAN: AAD CK 0008 J Respondent/ Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 16.9.2015 made in ITA No.127/Mds/2015 Commisioner of income Tax (appeals)-II, Chennai 34 in ITA.NO.738/2013-2014 dated 17/10/2014 against the Assessment order of the income tax officer,Company Ward -II(1), Chennai for GI/PA NO.AA DCK 0008 J for the Assessment Year 2010-2011.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel

For Respondent : Mr.G.Baskar

J U D G M E N T
(Delivered 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, 'A' Bench, Chennai, dated 16.9.2015 made in ITA No.127/Mds/2015, by raising the following substantial question of law:

> "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?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 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.50 lakhs.

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 not pressed, keeping open the substantial question of law for determination in an appropriate case.

Sd/--
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.
To

1. Commissioner of Income Tax-4
121 Mahatma Gandhi Road, Chennai.

2. Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai

3. The Income Tax Officer,
Corporate Ward-4(3)
4th Floor, Main Building,
Chennai 600 034.

4. The Commisioner of Income Tax (Appeals)-II,
121, Mahathma Gandhi Road, Chennai. 34.

+1cc to Mr. G.Baskar, Advocate SR.No. 11592

TCA No.163 of 2016

A.SK(21/03/2019)