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 No.176 of 2018

The Commissioner of Income Tax, Circle, Tuticorin ...Appellant

Vs

M/s.Raja Agencies, Tuticorin ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.9.2017 in ITA No.339/Mds/2017 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench for the assessment year 2013-14.

Against the order of the Commissioner of Income Tax (Appeals)-I, Madurai made in I.T.A.No.0041/2016-17 order dated 07.11.2016 and against the order of the Deputy Commissioner of Income Tax, Circle-I, Tuticorin made in PAN/GIR No.AABFR9434Q, order dated 22.03.2016 for the Assessment Year 2013-14.

For Appellant : Mr.M.Swaminathan, SSC



Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 10.4.2018 on the following substantial questions of law :

"i. Whether the Tribunal erred in law in holding that the assessee is eligible for deduction towards employees contribution PF and ESI payment which has been paid before the due date of filing of return of income under Section 139(1) of the Income Tax Act, 1961 ? and

ii. Whether the Tribunal erred in law in holding that container freight station developed and operated by the assessee constitutes an 'inland port' and therefore, attracts deduction under Section 80IA(4) of the Income Tax Act, 1961?"

3. The Revenue seeks to withdraw this appeal 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 In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open. In the event 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 appeal to be heard and decided on merits.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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

3. The Deputy Commissioner of Income Tax,
Circle-I, 19A, W.G.C.Road, Tuticorin.

4. The Commissioner of Income Tax Circle,
Tuticorin.

+1 cc to Mr.M.Swaminathan, Advocate SR.No.56

TCA.No.176 of 2018

CP(CO)
CSL/14.02.2019