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.31 of 2018

The Commissioner of Income Tax,
Chennai. ...Appellant/Appellant

Vs

M/s.Best & Crompton Engg Ltd.,
No.28, Sidco Industrial Estate,
Ambattur, Chennai - 600 056.
PAN: AAACB2753N ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.02.2017 made in ITA.No.647/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12, against the order of the Commissioner of Income Tax(Appeals) 121, Mahatma Gandhi Road, Chennai-600 034 dated 14.12.2015 New.No.ITA-10/CIT(A)-1/2014-15, ITA.NO.79/14-15, PAN. AAACB2753N for the assessment year 2011-12 and against the Assistant Commissioner of Income-Tax Company circle(2) Chennai-34 dated 12.03.14 PAN/GIR/ AAACB2753N for the Assessment year 2011-12 respectively.

For Appellant : Mr.T.Ravikumar, SSC
and Ms.R.Hemalatha, SSC

For Respondent: Not ready Notice

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JUDGMENT

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

We have heard Mr.T.Ravikumar, learned Senior Standing Counsel, and Ms.R.Hemalatha, learned Senior Standing Counsel

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appearing for the appellant/revenue.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 28.02.2017 made in ITA.No.647/MDS/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2011-12.

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

> "1.Whether the Tribunal was right in deleting the addition of Rs.6722678/- made by A.O. on account of delayed payment to Employee's Contribution to Provident Fund and ESI are allowable, especially when Section 36(!)(va) rad with Section 2(24)(x) prohibit such allowance being granted to the assessee?
>
> 2.Is not the finding of the Tribunal bad by deleting the additions made under Section 36(1)(va) which is allowable only if the employee's contribution to provident fund and ESI are credited into the specified account within the specified due dates as prescribed under the respective Acts which is not the case on hand?
>
> 3.Whether relief is to be granted to the Assessee by virtue of amended provision of Section 43B even in cases where there has been a belated contributions made in respect of Provident Fund and ESI in respect of Employee's contribution especially when the Section contemplates the payment to be made before the due date as prescribed in the respective Act which is not the case on hand?"

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

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substantial questions of law framed are 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 IV)

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Income Tax Department(Appeals),
121 Mahatma Gandhi Road, Chennai-34.

3.The Assistant Commissioner of Income Tax Department,
Company Circle(2), Chennai-34.

TCA.No.31 of 2018

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