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.8 of 2016

The Commissioner of Income Tax, Madurai ...Appellant

Vs

M/s.Theekathir Press of CPI(M), Madurai-18. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.5.2015 in ITA No.2727/Mds/2014 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2010-11 against the order dated 28.08.2014 in CIT(A) in I.T.A. 0064/2013-2014 in P.A. No. AAAAT3906B on the file of the Office of the Commissioner of Income Tax (Appeals)I Madurai against the order dated 28.03.2013 in PAN/GIR. No. AAAAT3906B on the file of the Office of the Income Tax officer, Ward II(4) Range II, Madurai for the assessment year 2010-2011.

For Appellant :Ms.V.Pushpa and Ms.S.Premalatha, JSC
For Respondent:Mr.Uttam Cheriyan

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 19.1.2016 on the following substantial question of law :

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of Section 40(a)(ia) of the Income Tax Act are applicable only to the amounts of expenditure, which are payable as on 31st

March of the relevant previous year and it cannot be invoked to disallow expenditure, which had been actually paid during the previous year, without deduction of tax at source ?”

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial question of law framed is left open.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. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To
1. The Income Tax Appellate Tribunal, Madras 'C' Bench.

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

3. The Income Tax officer
   Ward I(4) Range II, Madurai.

+1 CC to Mr.M. Swaminathan, Advocate sr 57.

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SPD(CO)
SP(28/01/2019)