IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.484 of 2018

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

M/s.Winner Dairy & (P) Ltd.,
Shri S.Elambharathi & Others,
New No.364 (Old No.210),
Lloyds Road, Flat No.5,
Ground Floor, "Kurupam Court",
Gopalapuram, Chennai-600 034.
PAN : AAACW 0573 F ... Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the order dated 28.10.2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.No.2027/Mds/2016 for the assessment year 2012-13.

against the order of the Commissioner of Income Tax (Appeals), Puducherry in ITA No. 018/CIT(A)-PDY/2015-16 dated 31/03/2016 for the Assessment Year 2012-13 against the order dated 31.03.2015 in PAN AAACW0573F passed by the Deputy commissioner of Income Tax, Pondicherry Circle, Pondicherry.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
Assisted by Ms.K.G.Usha Rani

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal has been filed by the Revenue under Section 260A of the Income-tax Act, 1961, challenging the order dated 28.10.2016 passed by the Income-tax Appellate Tribunal 'A' Bench, Chennai (for brevity "the Tribunal"), in I.T.A.No.2027/Mds/2016 for the assessment year 2012-13.

2.The Revenue has raised the following substantial questions of law for consideration:-

"(i) Whether on the facts and in the circumstances of the case the order of the Tribunal erroneous in law and perverse on facts.

(ii) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the provisions of Section 194C does not apply to the assessee even though the assessee had made payment to the contractors for hiring the vehicle for procurement and sale of milk on the ground that the payments were made to the owner of the vehicle and the provisions of Section 194C is applicable only to the subcontractors.

(iii) Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the assessing officer had not taken steps to examine the details of the bank account etc., furnished by the assessee even though the assessee had not discharged its burden of proof by providing the complete details of the payee by providing the address, PAN number of the assessee etc., warranting disallowance of the expenditure of such hire charges"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the Revenue.

4.The learned Senior Standing Counsel for the Revenue submits that the appeal is not being pursued by the Revenue on account of low tax effect in the light of the Circular No.3 of 2018, dated 11.07.2018.

5.Thus, by applying the above Circular, this tax case appeal stands dismissed on the ground of low tax effect and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeal if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

Sd/-
Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Deputy Commissioner of Income Tax,
   Pondicherry Circle, Pondicherry.

2.The Commissioner of Income-Tax (Appeals)-Puducherry,
   121, Mahatma Gandhi Road, Chennai-600 034.

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

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No. 50061

T.C.A.No.484 of 2018

SS(CO)
GN(23/07/2019)