In the High Court of Judicature at Madras

Dated : 16.7.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.489 of 2018

The Commissioner of Income Tax, Chennai ...Appellant

Vs

M/s.Q Source Global Consulting (P) Limited, Chennai-32 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.11.2016 made in ITA.No.2282/Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment year 2012-13. against the Order passed by the Commissioner of Income Tax (A)-3 Chennai, dated 17/03/2016 made in ITA.No. 109/CIT (A)-3/2014-15 and against the Assessment Order passed by the Deputy Commissioner of Income Tax, Corporate Circle V (2), Chennai, dated 10/12/2014 made in PAN AAAC Q1521H.

For Appellant : Mr.T.Ravikumar
For Respondent : Mr.A.S.Sriraman

Judgment of the Court was delivered by T.S.Sivagnanam,J

We have heard the learned counsel on either side.

2. This appeal is filed by the Revenue under Section 260A of the Income Tax Act, 1961 against the order dated 23.11.2016 made in ITA.No.2282/ Mds/2016 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench for the assessment year 2012-13.

3. The Revenue has filed this appeal by raising the following substantial questions of law :

> "i. Whether the Tribunal was right in deleting the additions made by the Assessing Officer under Section 2(24)(x) read with

Section 36(1)(va) holding that the employee's contribution paid towards provident fund/ESI belatedly was eligible for deduction while computing the business income even if the Section prohibits such allowance to be granted ? And

ii. Whether the deduction is to be allowed even in cases of belated payment of contribution towards ESI/pension funds especially when Section 2(24)(x) read with Section 36(1)(va) refers to sums received as employee's contribution and not employer contribution and would become income in the hands of the assessee as the same was credited to the relevant fund beyond due dates specified under those Acts ?"

4. The learned Senior Standing Counsel appearing for the Revenue has produced a letter dated 15.7.2019 issued by the Income Tax Officer (Judicial), Office of the Principal Commissioner of Income Tax, Chennai-5, Chennai-34 stating that the tax effect involved in this case is Rs.28.45 lakhs, which is far below the monetary limit fixed as per Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes and that he has been instructed him to withdraw the above appeal.

5. The letter dated 15.7.2019 issued by the Income Tax Officer (Judicial), Office of the Principal Commissioner of Income Tax, Chennai-5, Chennai-34 is placed on record and the above tax case appeal is dismissed as withdrawn. The substantial questions of law are left open. No costs.

Sd/-
Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

RS

To

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

2.The Commissioner of Income Tax (A) -3,
Chennai.

3. The Deputy Commissioner of Income Tax,
Corporate circle V (2),
Chennai.

+1cc to Mr. T.Ravikumar, Advocate, S.R.No. 59964
+1cc to Mr.S.Sridhar, Advocate, S.R.No. 60516

TCA.No.489 of 2018

EV(CO)
GN(22/08/2019)