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.727 of 2018

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

Vs

M/s.Beach Minerals Co. Pvt. Ltd.,
No.32/2, BMC House,
Halls Road, Egmore, Chennai - 600 008.
PAN: AABCB3450D ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 07.02.2018 made in ITA.No.1737/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14 against the Appellate order of the Principal Commissioner of Income Tax (Appeals) 1, Chennai dated 08.05.2017 and made in ITA No.18/CIT(A) 1/2016-17 for the Assessment year 2013-14; and against the Assessment order of the Income Tax Officer, Corporate Ward 1(2), Chennai dated 30.03.2016 made in PAN No.AADCB3450D for the Assessment year 2013-14.

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

For Respondent: Mr.A.S.Sriraman
for Mr.S.Sridhar

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 appearing for the appellant/revenue and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel appearing for the respondent/assessee.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated

07.02.2018 made in ITA.No.1737/MDS/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench for the assessment year 2013-14.

3.The appeal was admitted on 15.11.2018 on the following substantial questions of law :

> "i.Whether the disallowance under Section 14A read with Rule 8D is to be made only if the assessee earns exempt income during the relevant previous year as held by the Tribunal, which is contrary to the provision of the said Section ? And
>
> ii.Whether the Tribunal was right in holding that the employees contribution to provident fund and ESI was allowable as business expenditure under Section 43B even though the said contribution was not paid within the due dates as specified in the respective Acts and is contrary to the provisions of Section 36(1)(va) read with Section 2(24)(x) of the Income Tax Act? "

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 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(CCC)

//True copy//

Sub Assistant Registrar

cse

To

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

2. The Commissioner of Income Tax, Chennai

3. The Principal Commissioner of Income Tax,
(Appeals) 1, Chennai.

4. The Income Tax Officer,
Corporate Ward 1(2), Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.No.73676

+1cc to Mr.S.Sridhar, Advocate SR.No.74499

TCA.No.727 of 2018

PA(CO)
GMY(04/11/2019)