IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

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

Tax Case Appeal No.215 of 2017

The Commissioner of Income-tax,
Chennai. .. Appellant

-vs-

Tamilnadu Maritime Board,
No.171, South Kesavaperumalpuram,
Off Greenways Road, Raja Annamalaipuram,
Chennai-600 028. PAN: AAATT9514E .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 23.09.2016, made in I.T.A.No.1831/Mds/2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2008-09, against the order of the Commissioner of Income Tax, Chennai dated 11.03.2016 and made in ITA.NO.441/CIT(A)-1/2014-15 and against the order of the Deputy Commissioner of Income Tax, Business Circle-II, Chennai, dated 24.10.2014 for the assessment year 2008-09.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel &

Mrs.R.Hemalatha
Senior Standing Counsel

For Respondent : Ms.Sri Lakshmi Valli
For Mr.G.Baskar

JUDGMENT

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

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

23.09.2016, made in I.T.A.No.1831/Mds/2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment year 2008-09.

2.The appeal has been admitted on 11.04.2017, on the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the contribution made towards superannuation fund was to be treated as business expenditure and allowed under Section 37 of the Income Tax Act, 1961, even though it was an unapproved fund during the year which according to the appellant was hit by Section 36(1)(iv) read with Section 40A(9)?
>
> (ii) Whether the reasoning and finding of the Income Tax Appellate Tribunal is proper especially when as per Section 36(1)(iv), the employer's contribution towards recognized provident fund or approved superannuation is to be allowed as a deduction subject to the conditions prescribed thereunder?
>
> (iii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of CIT(A) who according to the Revenue failed to disallow the alleged excess claim of depreciation which corresponds to the fixed assets, the cost of which is borne by the State Government through capital grants and is contrary to the Explanation 10 of Section 43(1)? and
>
> (iv) Whether the reasoning and the finding of the Income Tax Appellate Tribunal is proper especially when CIT(A) did not even deal with the enhancement of assessment on a reference made by the Assessing Officer?"

3.Heard Mr.T.Ravikumar and Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant - and Ms.Sree Lakshmi Valli, learned counsel for the respondent.

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 08.08.2019 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

abr

To

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

2.The Commissioner of Income Tax,
121, Mahatma Gandhi Road,
Chennai-600 006.

3.The Deputy Commissioner of Income Tax,
Business Circle-II,
Chennai.

+1cc to Mr.G.Baskar, Advocate sr.75077
+1cc to Mr.T.Ravikumar, Advocate sr.74351

T.C.A.No.215 of 2017

mp(co)
nr 12/12/2019