IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

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

Tax Case Appeal Nos.409 and 410 of 2017

Principal Commissioner of Income Tax 7,
No.121, Mahatma Gandhi Road,
Chennai-600 034. .. Appellant in both Appeals / Appellant

-vs-

M/s.Enrec Engineers,
No.49, 13th Cross Street,
New Colony, Chrompet, Chennai-600 044.
PAN: AABFE 3594 Q .. Respondent in both Appeals/ Respondent

Appeals under Section 260A of the Income-tax Act, 1961, against the common order dated 21.09.2016, made in I.T.A.Nos.1910 & 1911/Mds/2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2009-10 and 2010-11 respectively, against the Order dated 28/03/2016 made in PAN.AABFE3594Q on the file of the Commissioner of Income Tax (Appeals)-10, Chennai - 34 for the Assessment year 2009-10 and 2010-11 and against the Order dated 26/03/2013 made in PAN/GIR No.AABFE3594Q on the file of the Deputy Commissioner of Income Tax, Business Circle-I, No.7, Ramakrishna Street, West Tambaram, Chennai - 45 for the Assessment year 2010-11 and against the Order dated 26/03/2013 made in PAN/GIR No.AABFE3594Q on the file of the Deputy Commissioner of Income Tax, Business Circle - I, West Tambaram, Chennai-45 for the Assessment year 2009-10.

For Appellant (In both Appeals)	:	Mr.Karthik Ranganathan, Senior Standing Counsel
	:	assisted by Mr.S.Rajesh, Standing Counsel
For Respondent (In both Appeals)	:	Mr.R.Kumar and Mr.T.N.Seetharaman

Common Judgment delivered by T.S.Sivagnanam, J.

These appeals filed by the Revenue under Section 260A of the Income-tax Act, 1961 are directed against the common order dated 21.09.2016, made in I.T.A.Nos.1910 & 1911/Mds/2016 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2009-10 and 2010-11 respectively.

2.The appeals were admitted on 02.08.2017, on the following substantial questions of law:-

> "(i) Whether the Appellate Tribunal was right in deleting the addition made under Section 40(a)(ia) of the Income Tax Act, 1961 in respect of labour expenses debited to Profit and Loss Account on which tax was not deducted at source under Section 194C of the Income Tax Act, 1961 or not remitted within due date?
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> (ii) Whether on the facts and circumstances of the case and in law, the Tribunal was right in holding that disallowance under Section 40(a)(ia) of the Income Tax Act, 1961 is applicable only to payments towards expenses payable as on 31st March of the previous year, when the section does not provide for any such condition? and
>
> (iii) Whether the Tribunal was justified in remitting the issue of addition under Section 40(a)(ia) of the Income Tax Act, 1961 to the Assessing Officer with a direction to follow the decision of ITAT Special Bench at Vizag in the case of Merilyn Shipping & Transporters when such decision was stayed by Andhra Pradesh High court and whether such direction of Tribunal is perverse in law?"

3.Heard Mr.Karthik Ranganathan, learned Senior Standing Counsel assisted by Mr.S.Rajesh, learned Standing Counsel for the appellant - and Mr.R.Kumar, learned counsel for the respondent.

4.The learned Senior Standing Counsel for the appellant submits that the above appeals are 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 appeals are 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 appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income TAx (Appeals-10), Chennai - 34.

3. The Deputy Commissioner of Income Tax,
Business Circle-I, No.7, Ramakrishna Street,
West Tambaram, Chennai - 45

+1 cc to Mr.T.N.Seetharaman, Advocate, S.R.No.75291

T.C.A.Nos.409 and 410 of 2017

SR(CO)
SSM(05/11/2019)