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.449 of 2017

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

-vs-

M/s.Diamond Engineering (Chennai) P Ltd.,
501, Vandalur Kelambakkam Main Road,
Mambakkam, Chennai-600 127.
PAN: AAACD3949E .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 07.10.2016, made in I.T.A.No.865/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12 preferred against the order of the Commissioner of Income Tax (Appeal) Chennai 34 dated 30.12.2015 made in I.T.A.No.54/CIT(A)-1/2014-2015 filed against the Assessment order of the Assistant commissioner of Income Tax Company Circle 1(4)I/C) Chennai dated 21.03.2014 for the Assessment year 2011-2012 in P.A. GIR.No./AAACD3949E.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel &
: Ms.R.Hemalatha
Senior Standing Counsel

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

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 07.10.2016, made in I.T.A.No.865/Mds/2016 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2011-12.

2.The appeal has been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the disallowance made u/s.36(1)(va) of the I.T. Act is to be allowed in spite of the fact that there had been a delay in payment of Employee's contribution to EST and PF? and
>
> (ii) Whether the reasoning and finding of the Tribunal is proper especially when Section 36(1)(va) of the Income-tax Act clearly holds that the sum is to be credited by the Assessee to Employee's account on or before the due date under the respective Acts?"

3.Heard Mr.T.Ravikumar and Ms.R.Hemalatha, learned Senior Standing Counsel for the appellant- and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, 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.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

abr

To

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

2.The Commissioner of Income Tax (Appeals)
Chennai 34.

3.The Assistant Commissioner of Income Tax
Company Circle 1(4) I/C
Chennai 34.

+1 CC to Mr.S.Sridhar, Advocate sr 75280.
+1 CC to Mr.T.Ravikumar, Advocate sr 74354.

T.C.A.No.449 of 2017

RSI(CO)
SP(30/10/2019)