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.738 of 2017

Commissioner of Income Tax,
Non Corporate Ward I(1), Madurai. .. Appellant

-vs-

M/s.A.Krishnaveni Constructions,
1/354-2, Ramasamy Nagar,
Thirumalpuram, Madurai-625 014.
PAN: AAJFA 1965D .. Respondent

Appeal under Section 260A of the Income-tax Act, 1961, against the order dated 05.05.2017, made in I.T.A.No.35/Mds/2017 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2007-08 Against the order of the Commissioner of Income Tax Appeals II,Madurai dated 06.10.2016 and made in ITA.NO.0064/2015-2016 and against the order of the Income Tax Officer dated 31.03.2015 for the Assessment Year 2007-2008.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

: assisted by Ms.V.Pushpa
Standing Counsel

For Respondent : No appearance

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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 05.05.2017, made in I.T.A.No.35/Mds/2017 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment year 2007-08.

2.The appeal has been admitted on 02.01.2018, on the following substantial question of law:-

> "Whether TDS remitted into the Government account by the assessee before the due date of filing return under Section 139(1) of the Income Tax Act, 1961 is to be considered as due payment of tax, as held by the learned Tribunal?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Standing Counsel for the appellant.

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 question of law framed is 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(CS VIII)

//True Copy//

Sub Assistant Registrar

abr

To

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

2.The Commissioner of Income Tax(appeals) -2,
Madurai

3.The Income Tax Officer,
Non Corporate Ward (1),Madurai

+1cc to Mr.M.Swaminathan , Advocate SR.No. 75050

T.C.A.No.738 of 2017

A.SK(15/11/2019)