IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.87 of 2017

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

Vs.

M/s.Peri Software Solutions Pvt.Ltd.,
M/s.Ramesh & Ramachandran
Chartered Accountant
New No.39, Old No.29/3,
Vishwanathapuram Main Road,
Kodambakkam,
Chennai 600 024. .. Respondent/Appellant

Prayer: Appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench dated 03.06.2016 - ITA No.754/Mds/2016 (Assessment Year 2011-12) and preferred against the Order of the commissioner of Income Tax, Chennai-34, dated 08.02.2016, made in C.No. 2 (27) /263/PCIT-5/CR-5/2015-16, for the assessment Year 2011-12 and the Assistant Commissioner of Income Tax Company Circle V (2) Chennai-34, dated 19.03.2014, made in PAN-AABCP 7391P, for the assessment year 2011-12.

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

For Respondent : Mr.A.S.Sriraman

J U D G M E N T

(By DR.VINEET KOTHARI,J.)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 09.04.2010, in

ITA No.754/Mds/2016, Assessment Year 2011-12, by 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 addition of Rs.30,16,641/- made by A.O. on account of delayed payment to Employee's Contribution to Provident Fund and ESI? and
>
> ii) Is not the finding of the Tribunal bade by deleting the additions made under Section 36(1)(a) which is allowed only if the employee's contribution to provident fund and ESI are credited into the specified account within the specified due dates as per respective Acts which is not the case on hand?

2. When the matter is taken up for hearing, learned Standing Counsel for the Department brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019, dated 8th August,2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and, therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

kkd

To

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

2.The Commissioner of Income Tax,
Chennai-34.

3.The Assistant Commissioner of Income Tax,
Company Circle V (2), Chennai -34.

TCA No.87 of 2017

MR(CO)
GN(15/10/2019)