IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.2.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.627 of 2011

Commissioner of Income Tax-I,
Chennai. Appellant

Vs.

M/s.Ajapa Integrated Project
Management Consultants Pvt. Ltd.,
No.47, Velacherry Road,
Little Mount, Saidapet,
Chennai 600 015. Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 22.6.2011 made in ITA No.2169/Mds/2010 A.Y.2007-08, ITA No.2169(MDS)/2010 against the order Commissioner of Income Tax (Appeals) III, Chennai in ITA No.527/09-10/A III dated of order 28/09/2010 in PAN AAFCA 5848L for the assessment year 2007-08 against the Deputy Commissioner of Income Tax Company Circle I(1), Chennai in P.A./G.I.R No.AAFCA5848L date of order 29/12/2009 for the assessment year 2007-2008.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.V.S.Jayakumar

J U D G M E N T
(Delivered 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, 'B' Bench, Chennai, dated 22.6.2011 made in ITA No.2169/Mds/2010, for the Assessment Year 2007-2008, by raising 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 no disallowance under Section 40(a)(i) could be made in respect of the consultancy fees paid to non-residents in respect of the assessee's oil exploration contract, by holding that section 44BB (1) would apply and therefore the assessee was right in deducting tax at the rate of 4%?

(ii) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in giving the decision mentioned in the preceding question even after holding that the decision of the Supreme Court in the case of GE India Technology Centre Pvt. Ltd. vs. CIT (327 ITR 456) would not be applicable in the assessee's case, instead of holding that the assessee was not correct in unilaterally deciding to deduct tax at a lower rate without obtaining a certificate from the Assessing Officer u/s.195(2) of the Act, applying the decision of the Supreme Court in the case of Transmission Corporation A.P. Ltd. vs. CIT (239 ITR 587)? "

2. When the matter is taken up for hearing, learned Senior Standing Counsel 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

//True copy//

Sub Assistant Registrar

ssk.

To

1. Commissioner of Income Tax-I,
Chennai.

2. Income Tax Appellate Tribunal,
'B' Bench, Chennai.

3. The Commissioner of Income Tax,
Appeals III, Chennai.

4. The Deputy Commissioner of Income Tax,
Company Circle I(1), Chennai.

+1cc to Mr.T.Ravikumar, Advocate SR.No.13442

+1cc to Mr.V.S.Jayakumar, Advocate SR.No.13994

RJI(CO)
GMY(17/06/2020)