IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.416 of 2015

Commissioner of Income Tax - I
Chennai … Appellant

Vs.

M/s Southern Wind Farms Limited,
15,Soundara Pandiyan Street,
Ashok Nagar,
Chennai 600 083. … Respondent

Appeal under Section 260A of the Income Tax Act, 1961 against the orderIncome Tax Appellate Tribunal, Chennai 'C' Bench dated 28.01.2014 in ITA No.878/Mds/2012.

TCA.No.413 of 2015: Appeal filed against order of the Income Tax Appellate Tribunal Madras 'C'Bench, dated 28/01/2014 in ITA.No.878/mds/2012, Assessment year 2008-2009 against The Commissioner of Income Tax(Appeals)V, Dated 30/12/2011 CIT(A)-ITA No.208/10-11 PAN.No.AAJCS06461 Assessment year 2008-2009 against Assistant Commissioner of Income Tax Campus Circle VI(3) PAN No.AAJC06462 Assessment year 2007-2008.

For Appellant : Mr.J.Narayanaswamy,
Senior Standing Counsel

For Respondent : Mr.Ramana Kumar

O R D E R

(Order of the Court was made by Dr.Vineet Kothari,J.)

The Court was held by Video Conference as per the Resolution of the Full Court dated 03 July 2020, by Judges at the respective residence and the counsel, staff of the Court appearing from their respective residences.

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2. 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, Madras C Bench dated 28.01.2014 in ITA No.878/Mds/2012, by raising the following substantial questions of law:

i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the disallowance made under Section 14A read with Rule 80 on the basis that the assessee did not have any exempt income?
ii) Whether under the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that PF and ESI contribution paid belatedly but prior to due date of filing of return is allowable as deduction?"
2. When the matter is taken up for hearing, learned 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(CS-III)

//True Copy//

Sub Assistant Registrar

KST

To

1.M/s Southern Wind Farms Limited,
15,Soundara Pandiyan Street,
Ashok Nagar, Chennai 600 083.

2.The Income Tax Appellate Tribunal
Madras 'C'Bench.

3.The Commissioner of Income Tax(Appeals V)
No.121, Mahatma Gandhi Raod,
Chennai-600 034.

4.The Assistant Commissioner of Income Tax
Company Circle VI(3)
Chennai.

VSN II(CO)
CB(02/11/2020)