IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.2.2020

CORAM

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

Tax Case (Appeal) No.149 of 2013

The Commissioner of Income Tax
Chennai : Appellant/Appellant

Vs.

M/s.S.S. Engineers & Builders,
No.25/12, 19th Street,
Jai Nagar, Arumbakkam,
Chennai 600 106. : Respondent/ Respondent

Tax Case filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 24.9.2012 made in ITA No.1329/Mds/2012, against the order of the Commissioner of Income Tax (Appeals VIII), Chennai-34 made in ITA No.77/10-11(A) VIII dated 15.03.2012 for the Assessment year 2008-09 and against the order of the Assistant Commissioner of Income Tax, Circle-V, Chennai-34 made in ABKFS0845G, dated 24.12.2010 for the Assessment year 2008-09.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel
For Respondent : Mr.A.S.Sriraman

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 24.9.2012 made in ITA No.1329/Mds/2012, for the Assessment Year 2008-2009, by raising the following substantial question of law:

> "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the disallowance made u/s. 40(a)(ia) in respect of Labour Charges paid, without deducting

TDS, on the ground that the assessee had already paid the amounts and nothing remained payable and Section 40(a)(ia) is applicable only where the amount remains payable, and not to amounts paid?"

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is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases.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

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

ssk.

To

1. The Commissioner of Income Tax
Chennai

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

3. The Commissioner of Income Tax,
Appeals (VIII), Chennai-600 034.

4. The Assistant Commissioner of Income Tax Circle V,
Chennai-34.

+1cc to Mr.S.Sridhar, Advocate, SR.No.9744.

TC(A) No.149 of 2013

SR(CO)
CSR: 17.03.2020