IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.6.2020

CORAM

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

Tax Case (A) No.317 of 2013

Commissioner of Income Tax
Coimbatore. Appellant/Respondent

Vs.

M/s.Ultra Readymix Concrete P. Ltd.,
No.36-38, 11th Street,
Tatabad, Coimbatore 641 012.
PAN: AACU7836K Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'D' Bench, Chennai, dated 6.11.2012 made in ITA No.1727/Mds/2012 arising aganist the order of the Commissioner of the Income Tax (Appeals)I ,Coimbatore, dated 17.04.2012, in Appeal No.47/11-12,arising aganist the order dated 28.06.2011 of the Deputy Commissioner of Income Tax,Company circle 1(3), Coimbatore,arising the assessment order dated 24/12/2010 of the Deputy Commissioner of Income Tax,Company circle 1(3) Coimbatore-1 PAN:AACU7836K

For Appellant :Mr.T.R.Senthilkumar
Senior Standing Counsel

For Respondent :Mr.M.P.Senthilkumar
for Mr.Philip George

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, 'D' Bench, Chennai, dated 6.11.2012 made in ITA No.1727/Mds/2012, for the Assessment Year 2008-2009, by raising the following substantial question of law:

"Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in in holding that the assessee neither concealed the Income nor filed inaccurate particulars of income but only failed to deduct the tax at source which was paid subsequently and therefore there is no infirmity in the order of the Commissioner of Income Tax (Appeals) deleting the penalty levied by the assessing officer?"

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is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases.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. Commissioner of Income Tax
   Coimbatore.

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

3. Deputy Commissioner of Income Tax,Company circle 1(3),
   Coimbatore

Tax Case (A) No.317 of 2013

RSK(CO)
GS(13/07/2020)