IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM

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

Tax Case (Appeal) No.209 of 2016

The Commissioner of Income Tax-II
121, Mahatma Gandhi Road,
Chennai. ... Appellant

Vs.

M/s.Indo Asia Energy Private Ltd.,
No.14, Padmanabhan Street
T.Nagar, Chennai 600 017
PAN : AAB CI 3998 R ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal 'C' Bench, Chennai dated 11.11.2014 in ITA No.1986/Mds/2014,

and against the Order of the Commissioner of Income Tax (Appeals)-II, Chennai -34 dated 13/01/2014, made in ITA No.447 of 2013-14, Assessment Year, 2006-07, and against the Order of the Deputy Commissioner of Income Tax, Co.Circle II (3), Chennai-34 dated 31.12.2010, made in PAN No.AABCI 3998 R Assessment Year 2006-2007.

For Appellant : Mr.V.Rajesh, Jr.Standing Counsel

For Respondent : Notice Served - No Appearance

J U D G M E N T

(Judgment of the Court was 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, 'C' Bench, Chennai, by raising the following substantial questions of law:

" (i) Whether on the facts and circumstances of the case, the Tribunal was right in deleting that Section 40(a)(ia) is applicable only on those amounts 'payable' and not those amounts 'paid' during the year without deducting tax at source? And
(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the amendment in Finance Act, 2010 to Section 40(a)(ia) is applied retrospectively?"

2. When the matter was taken up for hearing, the 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 cases, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KST
To

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

2.The Commissioner of Income Tax (Appeals)-II,
121, Mahatma Gandhi Road,
Chennai-34.

3.The Deputy Commissioner of Income Tax,
Company Circle II(3),
Chennai-34.

T.C.(A) No.209 of 2016

br[co]
srg 21/07/2020