IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

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

T.C.A.No.335 of 2017

Principal Commissioner of Income Tax 4
NO.121, Mahatma Gandhi Road,
Chennai 600 034. ...appellant

Vs.

M/s.Olympus Elevator Private Ltd.,
by L/R. M/s.Kone Elevator India Pvt. Ltd.,
NO.50-55, Vanagaram Road,
Ayanambakkam,
Chennai 600 095. ...respondent

Prayer: Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras "A" Bench, dated 26.10.2016 in ITA.No.2217/Mds/2015 and against the order of the Commissioner of Income Tax (Appeals)-3, Chennai-34, dated 02.09.2015 made in ITA No.42/2013-14/A-3, and against the Order of the Deputy Commissioner of Income Tax, Company Circle-II(4), Chennai 34, dated 31.03.2014, made in PAN/GIR No.AAACK2567P

For Appellant :: Mr.T. Ravikumar, Sr.Standing Counsel

For Respondent :: Ms.Srini Ranjani Srinivasan
for Mr.G.Baskar

ORDER

(Made by DR.VINEET KOTHARI, J.)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residence and the counsel, staff of the Court appearing from their respective residences.

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 "A" Bench by raising the following substantial question of law:

> " Whether on the facts and circumstances of the case and in law, Tribunal was correct and justified in directing the Assessing Officer to allow MAT credit u/s 115JAA of the Act "including surcharge and cess" when surcharge and education cess are not admissible for claim of credit as per provisions of the section 115JAA of the Income Tax Act?"

3. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 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).

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is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases.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

kpl/tar

To

1.M/s.Olympus Elevator Private Ltd.,
by L/R. M/s.Kone Elevator India Pvt. Ltd.,
NO.50-55, Vanagaram Road,
Ayanambakkam,
Chennai 600 095.

2.The Commissioner of Income Tax,
(Appeals)-3,
Chennai 34.

3.The Deputy Commissioner of Income Tax,
Company Circle-II(4),
Chennai-34.

+1cc to Mr.G.Baskar, Advocate, S.R.No.25990
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.26182

BR(CO)
KKV/28/08/2020