IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.08.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 15863 of 2009

Sri Balaji Enterprises,
Represented by its Partner,
Mr.N.A.Rajendran,
No.31/2, Amman Koil Street,
Park Town,
Chennai - 600 003. ... Petitioner

..vs..

1. The Assistant Commissioner of Income Tax,
Circle - XII,
Chennai - 600 006.

2. The Union of India,
Ministry of Finance,
Represented by its Secretary,
Department of Revenue,
Central Secretariat, North Block,
New Delhi - 110 001.

3. The Central Board of Direct Taxes,
Represented by its Secretary,
Central Secretariat,
North Block,
New Delhi - 110 001. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the provisions of clause (ia) of Section 40(a) of the Income Tax Act introduced by the Finance Act No.2 of 2004 with effect from 01.04.2005 as ultra vires and striking down the same insofar as it provides for the dis-allowance of expenses in respect of which tax is not deducted at source or paid over to the Government within the time prescribed under sub-section 1 of Section 200 of the Income Tax Act in compacting the taxable income.

For Petitioner : Mr.G.Baskar

For Respondents : Mrs.Hema Murali Krishnan
Senior Standing Counsel

O R D E R

The relief sought for in the present Writ Petition is to declare the provisions of clause (ia) of Section 40 of the Income Tax Act introduced by the Finance Act No.2 of 2004 with effect from 01.04.2005 as ultra vires and striking down the same insofar as it provides for the dis-allowance of expenses in respect of which tax is not deducted at source or paid over to the Government within the time prescribed under sub-section 1 of Section 200 of the Income Tax Act.

2. The learned respective counsel appearing on behalf of the parties brought to the notice of this Court that the validity of the said provision has already been upheld by this Court in the case of Tube Investments of India Limited and another vs. Assistant Commissioner of Income Tax and others reported in (2010) 325 ITR 610 (mad).

3. In view of the fact that, the provision has already been upheld, no further adjudication is required in this Writ Petition.

4. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner of Income Tax,
Circle - XII,
Chennai - 600 006.

2. The Secretary,
The Union of India,
Ministry of Finance,
Department of Revenue,
Central Secretariat, North Block,
New Delhi - 110 001.

3. The Secretary,
The Central Board of Direct Taxes,
Central Secretariat,
North Block,
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AK(CO)
CT(17/09/2021)