IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.57 of 2015

The Commissioner of Income Tax,
Chennai. ... Appellant/Respondent

Vs.

M/s.VKC Credit and Forex Services Pvt. Ltd.,
Jeyamkondar Apartments,
Unit No.1B, 1st Floor,
Alwarpet, Chennai - 600 018. ... Respondent/Appellant

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 08.08.2014 in I.TA.No.639/Mds/2014 Assessment Year 2007-08.

Against the order of the Commissioner of Income Tax (Appeals)-II in ITA.No.973/2013-14 dt.31.10.2013 for the assessment year 2007-08 against the order of Deputy Commissioner of Income Tax Company Circle III(4), Chennai, GIR.No/PAN-39-V/AAACV3640E dt.21.12.09 for the assessment year 2007-08.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Mr.M.P.Senthil Kumar

JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 08.08.2014 made in I.TA.No.639/Mds/2014 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2007-08.

3.The appeal was admitted on 10.03.2015 on the following substantial questions of law:

> "1)Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that provisions of Section 40a (ia) are applicable only to the amount of the expenditure which are payable as of 31st March of the relevant previous year and it cannot be invoked to disallow expenditure which had been actually paid during the previous year for which no tax had been deducted at source?
>
> 2)Is not the finding of the Tribunal bad, especially when the assessee has not deducted TDS in respect of rent paid which would automatically warrant disallowance under Section 40(a)(ia)?
>
> 3)Whether the term payable would include the amount which are paid during the previous year or only those that are outstanding as on 31st of March?
>
> 4)Whether on the facts and circumstances of the case, the Tribunal was right in treating the amount payable as distinct from the amount paid for the purpose of provisions of Section 40(a) (ia)?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the Low Tax Effect in terms of Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 crore. It is further submitted that the tax effect in these cases are less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in this case is above the threshold limit fixed in the said Circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Chennai, "B" Bench

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

3.The Deputy Commissioner of Income Tax,
Company Circle III(4), Chennai.

+1 cc to Mr.M.Swaminathan, Advocate, S.R.No.18577

T.C.A.No.57 of 2015

AAB(CO)
KM(16/04/2021)