IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

T.C.A.No.735 of 2013

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

Vs.

M/s.Sahuwala Flour Mills
No.56, Namiah Maistry Street,
Tondiarpet, Chennai - 600 081. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 05.01.2012 in I.TA.No.1784/Mds/2011, Assessment Year 2008-09 against the order of the Commissioner of Income Tax (Appeals)IX, Chennai dated 12.09.2011 made in I.T.A. No. 122/2010-2011 for the Assessment year 2008-2009 against the Assessment order of the Assistant Commissioner of Income Tax Circle VII, Chennai dated 31.12.2010 made in P.A. No./GIR No. AABFS8827N for the Assessment year 2008-2009.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

JUDGMENT

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

We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Sivaraman, 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 05.01.2012 made in I.TA.No.1784/Mds/2011 on the file of the Income Tax Appellate Tribunal, Chennai, "B" Bench (for brevity, the Tribunal) for the Assessment Year 2008-09.

3.The appeal was admitted on 10.04.2014 on the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that Section 40(a)(ia) is not attracted even though TDS amount had not been deducted and paid?

2.Whether it was proper for the Tribunal and had enough material to dismiss the appeal of the Revenue especially when the payments were made on account of rendering services and facilitating supply/procurement is not for supply of any product?

3.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the contract entered by the assessee was not a service contract and no TDS was required to be deducted under Section 194C?"

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 this case is 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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mkn

To

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

2.The Commissioner of Income Tax(Appeals)IX
Chennai.

3.The Assistant Commissioner of Income Tax
Business Circle VII, Chennai 34.

T.C.A.No.735 of 2013

RLD(CO)
SP(23/07/2021)