IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.3.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tax Case Appeal No.763 of 2019

The Principal Commissioner of
Income Tax, Central-I, Chennai ...Appellant

Vs

M/s.Apollo Hospitals Enterprises
Pvt. Ltd., Chennai-6. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 02.4.2019 passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai made in I.T.A.No.3467/Chny/2018 for the assessment year 2012-13 made against the order of Commissioner of Income Tax (Appeals)-3, Chennai dated 31.08.2018 I.T.A.No.215/2015-2016/A-1, PAN AAACA5443N relevant to the Assessment year 2012-2013, made against the Assessment order dated 31.03.2015 made by the Deputy Commissioner of Income Tax Corporate Circle-1(1) Chennai PAN AAACA5443N for the Assessment year 2012-2013.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by Mrs.K.G.Usharani, JSC

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 02.4.2019 made in I.T.A.No.3467/Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai, 'A' Bench ('the Tribunal' for brevity) for the assessment year 2012-13.

2. The Revenue has filed this appeal by raising the following substantial questions of law:

> "1. Whether the Tribunal was correct in not appreciating the fact that the sum of employee's contribution to PF and ESI were credited by the assessee to employee's

account beyond the 'due date' as mentioned in Explanation to Section 36(1)(va) of the Income Tax Act, 1961 ? and

2. Whether the Tribunal is right in not following the decisions of the High Court of Gujarat in the case of CIT Vs. Gujarat State Road Transport Corporation [366 ITR 170] and the High Court of Kerala in the case of CIT Vs. Merchem Ltd. [378 ITR 443] wherein it is held that employees contribution should be paid on or before the due date as prescribed under the relevant statute ?”

3. We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Mrs.K.G.Usharani, Junior Standing Counsel appearing for the appellant/Revenue.

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 08.8.2019 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 on account of the low tax effect. The substantial questions of law raised are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to file a petition before this Court to restore the appeal to be heard and decided on merits.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, 'A' Bench, Chennai.

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

3.The Deputy Commissioner of Income Tax
Corporate Circle-1(1), Chennai

4.The Principal Commissioner of Income Tax
Central I, No. 108 Nungambakkam High Road
Chennai 600 034.

+1 CC to Mr.T.R.Senthilkumar, Advocate sr 14782.
+1 CC to Mr.N.V. Balaji, Advocate sr 15145.

AKII(CO)
SP(15/04/2021)