IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

TCA.NO.501 OF 2014

M/s Tyco Sanmar Ltd.,
No.9, Cathedral Road,
Chennai - 600 086.

... Appellant/Respondent

Vs

The Assistant Commissioner of Income tax,
Company Circle - III (2),
Chennai 600 034.

... Respondent/Appellant

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai “B” Bench, dated 13.03.2014 in I.TA.No.1255/Mds/2013 Assessment Year 2006–2007, against the order of the Commissioner of Income Tax (Appeals) Trichy dated 01.02.2013 made in ITA.No.316/09-10 PAN No.AAACT 7409 H Assessment Year 2006-07, and against the order of the Deputy Commissioner of Income Tax, Company Circle III(2), Chennai dated 29.12.2009 PAN No.AAACT 7409 H for the Assessment Year 2006 – 07.

For Appellant	:	Mr.R.Venkatanarayanan for Mr.Subbaraya Aiyar
For Respondent	:	Mr.M.Swaminathan, Senior Standing Counsel Mrs.V.Pushpa, Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by R.MAHADEVAN, J.)

This is an appeal filed by the assessee, challenging the order dated 13.03.2014 passed by the Income Tax Appellate Tribunal, Chennai 'B' Bench, in I.TA.No.1255/Mds/2013, relating to the assessment year 2006-07. The operative portion of the Tribunal is quoted below for ready reference:

> "In view thereof, we also deem it proper to restore this issue back to the file of the Assessing officer who shall verify as to whether actual payment has been effected either in relevant previous year or before due date of filing of 'return'. Needless to say, he shall do so after giving adequate opportunity of hearing to the assessee".

2. On 13.08.2014, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> "Whether on the facts and circumstances of the case and in law the Tribunal was right in holding that the provision of Rs.24,44,329/- made by the assessee towards the approved gratuity fund with LIC of India and approved by the Commissioner of Income Tax is not an allowable deduction under section 40 (A)(7)(b) of the Act?"

3. Today, when the matter was taken up for consideration, the learned counsel appearing for both sides jointly submitted that pursuant to the order of remand, which is impugned herein, the assessing officer passed the fresh assessment order, which was challenged by the assessee before the CIT(A). Thereafter, the assessee went on further appeal in ITA.No.2680/Chny/2017 before the ITAT, which, by order dated 27.11.2019, allowed the said appeal, in the following terms:

> "4. In reply, the learned Departmental Representative vehemently supported the order of the learned Assessing Officer and the learned CIT(A).
>
> 5. We have considered the rival submission and perused the materials available on record.
>
> 6. As it is noticed, the issue is now squarely covered by the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case for immediately succeeding assessment year as extracted above, respectfully following the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case referred to supra, the Assessing Officer is directed to grant the assessee the benefit of deduction under section 40A(7)(b) of the income Tax Act, 1961 of the provision for gratuity to the Approved Gratuity Fund maintained with the Life Insurance Corporation of India.

7. In the result, the appeal of the assessee is allowed."

Thus, according to the learned counsel, nothing survives for further adjudication in this appeal.

4. Recording the submissions so made on both sides, this tax case appeal stands disposed of, leaving the substantial question of law open. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
   Chennai “B” Bench.

2. The Assistant Commissioner of Income tax,
   Company Circle - III (2),
   Chennai 600 034.

3. The Commissioner of Income Tax (Appeals),
   Trichy.

4. The Deputy Commissioner of Income Tax,
   Company Circle – III (2)
   Chennai 600 034.

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.33343

TCA.No.501 of 2014

RLD(CO)
RLP(27/06/2022)