IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

Tax Case Appeal No.811 of 2018

The Commissioner of Income Tax,
Chennai. .. Appellant

-vs-

M/s.Bonfigioli Transmissions Private Limited, Plot No.AC7-AC11,
SIDCO Industrial Estate, Thirumudivakkam,
Chennai 600 044.
PAN: AABCB1675N .. Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961, against the order dated 14.05.2018 passed in ITA No.2977/Chny/2017 on the file of Income Tax Appellate Tribunal, Madras 'D' Bench, for the Assessment Year 2013-14.

For Appellant : Mr.Ravikumar T.
Sr. Standing Counsel

For Respondent : Ms.Lakshmi

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

On 06.01.2025, the following order was passed:

" The substantial questions of law raised for consideration are as follows:

"1. Whether the Tribunal was right in deleting the disallowance of sales commission merely on the ground that no disallowance was made in the previous year especially when the Principle of resjudicata will not applicable to I. T Act, 1961 ?

2. Whether the Tribunal was right in granting relief to the Assessee especially when no evidence was produced by the Assessee tosubstantiate the fact that the German subsidiary had rendered anyservice to the assessee when all the sales were made only from India by the Assessee company ?

3. Whether the Tribunal was right in deleting the additions made u/s.36 (1)(va) of the Act on belated payment of Employees' contribution made towards provident fund ?

4. Whether the Tribunal was right in not appreciating the fact that when the closely linked transactions can be benchmarked using the integrated approach and management services in the nature of accounting, finance, marketing etc which are not closely linked with the Import and Export of gear boxes and components especially when OCED guidelines which had been approved by the Indian Transfer Pricing provides for bench marking on transaction to transaction basis ?"

2. Both Mr.Ravikumar, learned Senior Standing Counsel for theappellant/revenue and Ms.Lakshmi, learned counsel for the respondent/assessee would accede to the position that question No.3, Whether the Tribunal was right in deleting the additions made u/s.36 (1)(va) of the Act on belated payment of Employees' contribution made towards provident fund ? is covered by a decision of the Hon'ble Supreme Court in ***Checkmate Services P. Ltd. V. Commissioner of Income Tax – 1 (448 ITR 518)*** *in favour of the Revenue.*

3. Hence, the third question of law is answered in favour of the revenue and this Tax Case (Appeal) is admitted on questions 1, 2 and 4 alone.

4. Ms.Lakshmi states that the appeal filed may be less than the tax effect. Let this be looked into by the Department.

5. List on 29.01.2025."

2. Today, Mr.Ravikumar seeks leave to withdraw the appeal in view of the monetary limit involved in the appeal as prescribed in Circular No.09/2024 dated 17.09.2024, issued by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, Government of India. Counsel also states that the withdrawal is only due to the monetary limit and without conceding the stand of the Department.

3. Mr.Balaji states that even the order passed as regards Question No.3 should be reversed because of the low tax effect. We decline to do that.

4. Appeal stands dismissed as withdrawn only as regards Question Nos.1, 2 and 4. Since the assessee has accepted that Question No.3 is covered by a decision of the Apex Court, the Revenue shall immediately calculate the amount payable and recover it from the assessee.

There shall be no order as to costs.

(K.R.SHRIRAM, CJ.) **(SUNDER MOHAN, J.)**
11.06.2025

Index : Yes/No
Neutral Citation : Yes/No

sra

To

1. The Income Tax Appellate
Tribunal Madras 'D' Bench.

2. The Commissioner of Income Tax,
Chennai.

The Hon'ble Chief Justice
and
Sunder Mohan, J.

(sra)

T.C.A. No.811 of 2018

11.06.2025