

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.210/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

The Assistant Commissioner of
Income Tax,
Corporate Circle – 1(2),
Chennai - 600 034.

v.

M/s Buzzworks Business Services
Pvt. Ltd.,
Flat #2A, 2nd floor, Jade Terrace,
No.27, Balfour Road, Kilpauk,
Chennai - 600 002.

PAN : AACCB 8364 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Smt. Pavuna Sundari, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri S. Sridhar, Advocate

सुनवाई की तारीख/Date of Hearing : 01.06.2017

घोषणा की तारीख/Date of Pronouncement : 09.06.2017

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) -1, Chennai, dated 21.11.2016 and pertains to assessment year 2012-13.

2. The only issue arises for consideration is disallowance of employees contribution towards PF and ESI.

3. We have heard the Ld. Departmental Representative and the Ld.counsel for the assessee. It is not in dispute that employees contribution to ESI and PF were paid before the due date for filing the return of income under Section 139(1) of the Income-tax Act, 1961 (in short 'the Act'). The only contention of the Ld. D.R. before this Tribunal is that the CBDT issued circular on 17.12.2015 after the judgment of Madras High Court in CIT v. Industrial Security & Intelligence India Pvt. Ltd. in Tax Case (Appeal) Nos,585 and 586 of 2015 dated 24.07.2015. Therefore, the circular issued by the CBDT would prevail over the judgment of Madras High Court. We are unable to accept the contention of the Ld. D.R. The judgment of Madras High Court cannot be overruled by an executive order of the CBDT. This Tribunal is of the considered opinion that the judgment of Madras High Court can be overruled only by the judgment of Apex Court and not by any of the executive authorities in the country. Therefore, unless and until the judgment of Madras High Court is overruled by Apex Court, the CBDT cannot issue any circular contradicting the judgment of Madras High Court. In other words, the judgment of Madras High Court would prevail over the circular issued by CBDT. Hence, the CIT(Appeals) has rightly

followed the judgment of Madras High Court and allowed the claim of the assessee. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

4. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 9th June, 2017 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 9th June, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-1, Chennai
4. Principal CIT-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.