

(2014) 11 MAD CK 0578**Madras High Court****Case No:** Tax Case (Appeal) No. 513 of 2014The Commissioner of Income
Tax

APPELLANT

Vs

Voltech Projects Pvt. Ltd.

RESPONDENT

Date of Decision: Nov. 25, 2014**Hon'ble Judges:** R. Sudhakar, J; R. Karuppiyah, J**Bench:** Division Bench

Judgement

R. Sudhakar, J.

1. The respondent-assessee is engaged in contract business and in the memo of income, it had claimed deduction of the amounts retained by its clients as per the contracts. According to the assessee, as the amounts were not received, they cannot be considered as part of income for the impugned assessment year. The original authority, while considering the decision of this Court in [Commissioner of Income Tax Vs. Ignifluid Boilers \(I\) Ltd.](#), was of the view that since the issue was pending before the Supreme Court and that such a claim is of recurring nature, declined to extend the benefit to the assessee. The Commissioner of Income Tax (Appeals), however, laying emphasis on the decision of this Court in Ignifluid Boilers (P) Ltd., case (supra), allowed the appeal of the assessee and the department's appeal before the Tribunal was dismissed holding that the decision of the jurisdictional High Court is binding on the Tribunal and therefore there was no reason to differ with the findings of the Commissioner of Income Tax (Appeals). The said order of the Tribunal is under challenge before us.

2. When the matter was taken up for admission, the learned counsel for the appellant fairly pointed out that the Special Leave Petition preferred by the department in C.C.No. 4879 of 2006 against the decision of this Court in Ignifluid Boilers (P) Ltd., case was dismissed by the Supreme Court by order dated 17.7.2006.

3. Since the issue raised in this appeal had already been decided against the department by the Supreme Court in C.C.No. 4879 of 2006 dated 17.7.2006 (Commissioner of Income Tax v. M/s Ignified Boilers India Ltd.) and in C.C.No. 9463 of 2006 dated 12.12.2006 (Commissioner of Income Tax v. East Coast Constructions & Industries Limited), no question of law arises for consideration. Accordingly, the tax case appeal is dismissed.