IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

T.C.A.Nos.159, 160 & 284 of 2020

Principal Commissioner of Income Tax
Central 2, No.108, Mahatma Gandhi Road,
Chennai 600 034. .. Appellant in all cases

Versus

M/s.SNJ Distillers Private Ltd.,
99, Canal Bank Road,
C.I.T.nagar, Nandhanam,
Chennai 600 035.
PAN AALCS9312F .. Respondent in all cases

Common Prayer:- Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, "A" Bench, in S.P.No.230 & 231/Chny/2019 in I.T.A.No.2194 & 2195/Chny/2019 dated 02.08.2019, S.P.No.291/Chny/2019 in I.T.A.No. 2993/Chny/2019 dated 25.10.2019 for the assessment years 2015-16, 2016-17 & 2017-18.

For Appellant in all appeal : Mr.T.R.Senthil Kumar
Senior Standing Counsel
assisted by Ms.K.G.Usharani

For Respondent in all appeal:Mr.Ashok Pathy
for M/s.Pass Associates

COMMON JUDGMENT

[Order of the Court was made by T.S.SIVAGNANAM, J.]

These appeals, filed by the Revenue, under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity). Challenging the orders passed by the Income Tax Appellate Tribunal, Bench 'A' Chennai ('Tribunal' for brevity) in S.P.Nos.230 & 231/Chny/2019 in I.T.A.No.2194 & 2195/Chny/2019 and S.P.No.291/Chny/2019 in I.T.A.No. 2993/Chny/2019 dated 02.08.2019 and 25.10.2019 for the assessment years 2015-16, 2016-17 & 2017-18, the Revenue has raised the following Substantial Question of Law:

T.C.A.Nos.159 & 284 of 2020:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in granting absolute stay of collection of demands for six months, without looking into the jurisdictional High Court and Supreme Court

rulings, simply passed the impugned order which is perverse in nature?

T.C.A.No.160 of 2020:

1. Whether on the facts and in the circumstances of the case, the ITAT was right in law in granting stay of recovery, till the debt due to the assessee from his creditor is fully recovered by the Department in satisfaction of its arrear demand, which would have the effect of the ITAT granting stay exceeding 180 days at a stretch, is in violation of the first proviso to Sec.254(2A) of the I.T.Act?

2. Whether the ITAT was correct in law in directing the Revenue to lift the bank attachment, when as per the provisions of Sec.254(2A) the ITAT has been endowed with the power only to grant stay?

2. We have elaborately heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel assisted by Ms.K.G.Usha Rani, learned Junior Standing Counsel for the appellant / Revenue and Mr.Ashok Pathy, for M/s.Pass Associates, learned counsel accepting notice on behalf of the respondent.

3. In the light of certain subsequent developments, it would not be

necessary to consider the Substantial Questions of Law framed by the Revenue in these appeals. Therefore, the subsequent relevant facts to be noted in this regard are as follows:

3.1. The assessee filed appeals before the Tribunal challenging the common order passed by the Commissioner of Income Tax (Appeals) ['CIT(A)' for brevity] which confirmed the Assessment Order under Section 153(A) read with Section 143(3) of the Act. The assessee also filed Stay Petition in those appeals and the Tribunal granted stay without imposing any conditions. In terms of Rules, order of Stay granted by the Tribunal would remain in force for a period of 180 days. The said period expired and orders impugned in these appeals are the said orders granted by the Tribunal on 02.08.2019. Subsequently the assessee filed Stay petitions in S.P.Nos.61 & 62 of 2020 in respect of Assessment Years 2015-16 and 16-17. The Tribunal by order dated 21.02.2020 dismissed both the said petitions.

3.2.Once again the assessee filed Stay Petitions in No.130, 131 and

132/2020 in respect of all the three assessment years and the Tribunal has passed an order on 29.05.2020.

4. Since these appeals have been filed challenging the interim order granted by the Tribunal dated 02.08.2019, nothing survives for consideration in these appeals. Accordingly these appeals are closed and the Substantial Questions of Law framed for consideration are left open. No costs.

(T.S.S.,J) (V.B.S.,J)
11.09.2020

sk

Index: Yes / No
Internet: Yes / No
Speaking Order/Non-Speaking Order

To
Principal Commissioner of Income Tax
Central 2, No.108, Mahatma Gandhi Road,
Chennai 600 034.

T.S.SIVAGNANAM, J.
AND

V.BHAVANI SUBBAROYAN, J.

sk

T.C.A.Nos.159, 160 & 284 of 2020

11.09.2020