IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.361 & 362 of 2019
& CMP.Nos.12328 & 12337 of 2019

M/s.Estra Enterprises Pvt. Ltd.,
Chennai-19 ...Appellant in both TCAs

Vs

The Assistant Commissioner of
Income Tax (OSD), Corporate
Range-2, Chennai-34. ...Respondent in both TCAs

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 27.3.2019 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai made in I.T.A.Nos.2950 and 2951/Chny/2018 respectively for the assessment years 2013-14 and 2014-15.

Appeals against the order dated 28/09/2018 passed by the Appellate Tribunal, The Income Tax Appellate Tribunal 'C' Bench, Chennai, made in Appeal No. 2950 of 2018, 2951 of 2018 against the order dated 22.08.2018 passed by the Commissioner of Income Tax (Appeals)-6, Income Tax Department, Chennai, made in ITA.No.584/CIT(A)-4/2016-17 and ITA.No.389/CIT (A)-6/2016-17 against the order made in PAN.No. AABCE6928K for the Assessment Year 2013—14, 2014-15 against the Assessment order dated 30.03.2016, 20/12/2016 passed by the Assistant Commissioner of Income Tax (OSD), Chennai made in PAN.No. AABCE6928K for the Assessment Year 2013-14, 2014-15.

For Appellant : Mr.M.Swaroop

For Respondent: Mr.Karthik Ranganathan, SC

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

These appeals have been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the common order dated 27.3.2019 made in

I.T.A.Nos.2950 and 2951/ Chny/2018 on the file of the Income Tax Appellate Tribunal, Chennai, 'C' Bench ('the Tribunal' for brevity) respectively for the assessment years 2013-14 and 2014-15.

2. The above appeals were admitted on 18.6.2019 on the following substantial questions of law:

> "i. Whether the Income Tax Appellate Tribunal erred in treating the sum of Rs.3,83,09,717/- and Rs.11,05,61,946/- being interest income earned by the appellant during the project stage as 'income from other sources ?
>
> ii. Whether the Income Tax Appellate Tribunal erred in not considering the fact that interest income had direct nexus with the expenditure related to the project, which has been capitalized ?
>
> iii. Whether the Income Tax Appellate Tribunal erred in not following the judicial discipline that if the income earned is directly attributable to the project expenditure capitalized, such income can be capitalized as relatable expenditure ?
>
> iv. Whether the Income Tax Appellate Tribunal erred in passing the impugned order by wrongly invoking Section 145(3) of the Act when the essential ingredients were not satisfied ? And
>
> v. Whether the Income Tax Appellate Tribunal erred in not following the accounting standards and the guidance notes issued by the ICAI in holding income earned during pre-commencement of commercial operations and directly related to the project need to be adjusted with the related project expenditure?"

3. We have heard Mr.M.Swaroop, learned counsel appearing for the appellant/assessee and Mr.Karthik Ranganathan, learned Standing Counsel appearing for the respondent/Revenue.

4. The learned counsel on behalf of the appellant/assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 15.9.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the applications/declarations in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as

possible. The assessee is given liberty to restore these appeals in the event the ultimate decision to be taken on the declarations filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any applications to be filed for condonation of delay in restoration of the appeals and on such request made by the assessee by filing miscellaneous petitions for restoration, the Registry shall place such petitions before the appropriate Division Bench for orders.

6. The tax case appeals stand disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs. Consequently, the connected CMPs are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
'C' Bench, Chennai.

2.The Assistant Commissioner of Income Tax (OSD),
Corporate Range-2, Chennai-34.

3.The Commissioner of Income Tax (Appeals)-6,
Chennai.

4.The Deputy Commissioner (Appeals) of Income Tax,
Chennai.

5.The Commissioner of Income Tax (Appeals),
Chennai.

Copy To
The Sub Assistant Registrar,
Main (AE),
High Court, Madras.

RS

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of 2019

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GN(19/01/2021)