IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

INCOME TAX APPEAL (ITL) NO.14 OF 2016

The Pr. Commissioner of Income Tax-I, Aaykar Bhawan, Civil Lines, Nagpur
-vs-
M/s Leela Lifescience Pvt. Ltd. Pt. No.41, Leela House, North Ambazari Road, Nagpur

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri Abhishek Bhoot, Advocate with Shri S. N. Bhattad, Advocate for appellant.
Respondent served.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.
DATE : November 24, 2021

Heard.

While admitting this appeal, the following substantial question of law was framed :

> *" Whether the ITAT is right in law in holding that the addition on account of deemed dividend of Rs.4,20,56,666/- was correctly deleted by the learned CIT (Appeals) holding that the assessee company was not a registered share-holder of the lender company M/s Leela Ventures India Private Limited although there is no such requirement in the provisions of Section 2(22)(e) of the Income Tax Act, 1961 ? "*

The Income Tax Appellate Tribunal, Nagpur while considering the appeal preferred by the Revenue against the deletion of additional claim on account of deemed dividend under Section 2(22)(e) of the Income Tax Act, 1961 on the ground that the assessee-company was not a registered share-holder of M/s Leela Ventures India Pvt. Ltd. from whom the advance was received maintained such deletion by relying upon the judgment of this Court in ***Commissioner of Income Tax vs.***

Impact Containers P. Ltd.(and connected appeals) 2014(367) ITR 346. It was held in the aforesaid decision that it was necessary for the assessee-company to be a registered share-holder of the company from whom the advance was received. This appeal was admitted after noting the fact that the aforesaid decision in ***Impact Containers Pvt. Ltd.*** (supra) was challenged before the Honourable Supreme Court and the said challenge was pending.

Shri A. Bhoot, learned counsel for the appellant submits that during pendency of this appeal, Civil Appeal No.1141/2015 alongwith other connected appeals was decided by the Honourable Supreme Court on 15/10/2017 and those appeals were dismissed affirming the judgment under challenge.

As a result, it is clear that the Tribunal was justified in maintaining the deletion of addition that was made on account of deemed dividend by holding that the assessee-company was not a registered share-holder of the lender-company M/s Leela Ventures India Pvt. Ltd. The substantial question of law as framed is therefore answered against the Revenue and the order passed by the Income Tax Appellate Tribunal on 24/09/2015 stands confirmed.

The Income Tax Appeal stands dismissed with no order as to costs.

(G. A. Sanap, J.) **(A. S. Chandurkar, J.)**

Asmita