IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V. THAMILSELVI

Tax Case Appeal No.1393 of 2008

M/s. India Equipment Leasing Ltd.,
(Merged with Sundaram Finance Limited)
21, Patullos Road, Chennai. ... Appellant

v.

The ACIT,
Co.Cir.VI(4),
Chennai. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai, dated 28.09.2007 passed in I.T.A.No.801/Mds/2004.

For Appellant	:	Ms.Sriniranjani Srinivasan for Mr. G. Baskar
For Respondent	:	Mr. A. Venkataraman Standing Counsel

JUDGMENT

(Delivered by T.V. THAMILSELVI, J)

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 28.09.2007 passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.801/Mds/2004. for the Assessment Year 2008-09. The assessee has raised the following Substantial Questions of Law for consideration:

" (i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that lease transactions entered into by the appellant with M/s. Prakash Industries Ltd and M/s Bellary Steels and Alloys Ltd. were not genuine and hence not entitled to depreciation?

(ii) Whether on the facts and in the circumstances of the case the Tribunal was justified in ignoring the evidences produced by the appellant that would establish the lease transactions entered into by the appellant are genuine and hence entitled to depreciation?"

2. We have heard Ms.Sriniranjani Srinivasan, learned counsel for the appellant/assessee and Mr. A.Venkataraman, learned Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain subsequent developments. The Government of India enacted the **Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020)** to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

4. We are informed by the learned counsel for the appellant/assessee

that the assessee has already filed the declaration on 23.03.2020 under Section 4 of the Act.

5. In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping this appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal stands disposed of on the ground that the assessee has already filed a declaration and the Department shall process the application at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration 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 application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place

such petition before the Division Bench for orders.

6. With this observation, the Tax Case Appeal stands disposed of with the aforementioned liberty and Consequently, the Substantial Questions of Law are left open. No costs. No costs.

(M.D.,J.) (T.V.T.S.,J.)
08.01.2021
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Index : Yes/No
Internet : Yes
Rj

To

The ACIT,
Co.Cir.VI(4),
Chennai.

M. DURAISWAMY, J.
and
T.V. THAMILSELVI, J.

Rj

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