

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2021

CORAM

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

Tax Case Appeal Nos.1921 and 1924 of 2008

M/s.Oriental Hotels Ltd.,
17, M.G. Road,
Chennai – 600 034.

... Appellant
in both appeals

Vs.

The Joint Commissioner of Income Tax,
Special Range – VIII,
Chennai.

... Respondent
in both appeals

Tax Case Appeals in T.C.A. Nos.1921 and 1924 of 2008 filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras “B” Bench, dated 30.06.2005 passed in I.T.A.Nos.89/Mds/2003 and 1341/Mds/2003 respectively.

For Appellant : Mr.Venkata Narayanan
for M/s.Subbaraya Aiyar
in both appeals

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel
in both appeals

COMMON JUDGMENT
(Delivered by M. DURAISWAMY, J)

These appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 30.06.2005 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.Nos.89/Mds/2003 and 1341/Mds/2003 for the Assessment Years 1998-1999 and 2000-2001 respectively. The above appeals have been admitted on 27.01.2009 on the following Substantial Questions of Law:

"1. Whether the Appellate Tribunal is not entitled to deduction under Section 35D and hotel industry cannot be regarded as an industrial undertaking without appreciating that hotel falls within the definition of "industry"?

2. Whether the Appellate Tribunal was right in law in denying deduction under Section 35D when the same has been allowed in the initial assessment year 1995-96?

2. We have heard Mr.Venkata Narayanan for M/s.Subbaraya Aiyar, learned counsel for the appellant/ assessee and Mr.T.Ravikumar, learned Senior 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 requisite Forms 1 & 2 on 28.12.2020 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 these appeals 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 Appeals stand disposed of on the ground that the assessee has already filed the requisite Forms 1 & 2 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 these appeals 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 these appeals 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, these Tax Case Appeals stand disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

[M.D., J.] [T.V.T.S., J.]

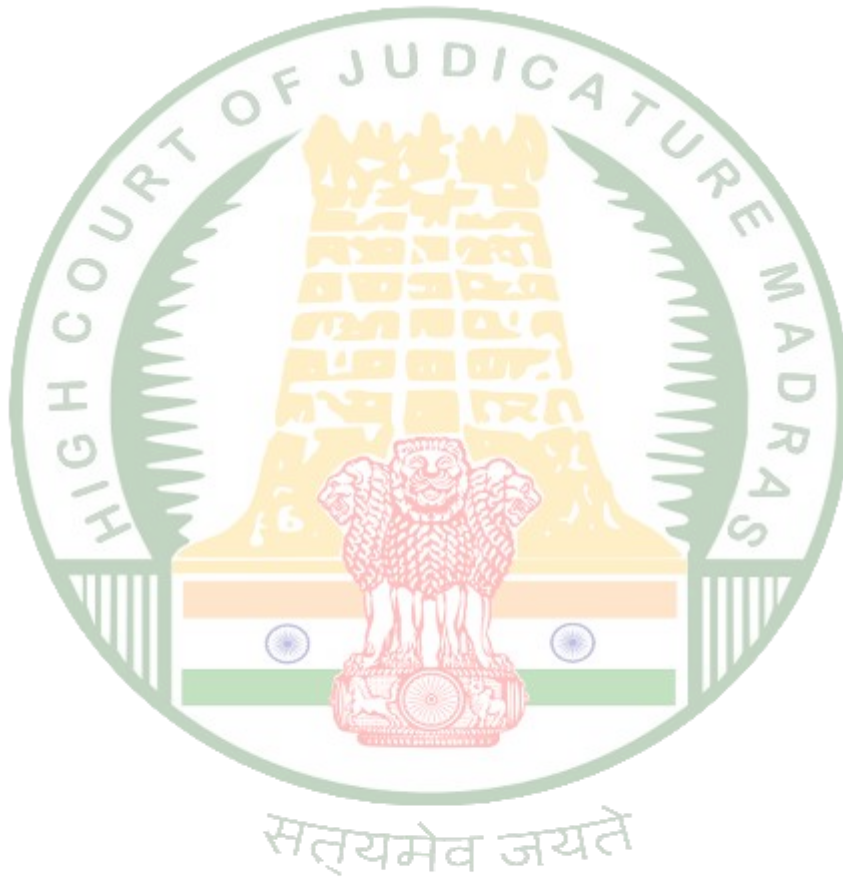
17.02.2021

(7/7)

Index : Yes/No
Internet : Yes
mkn

To

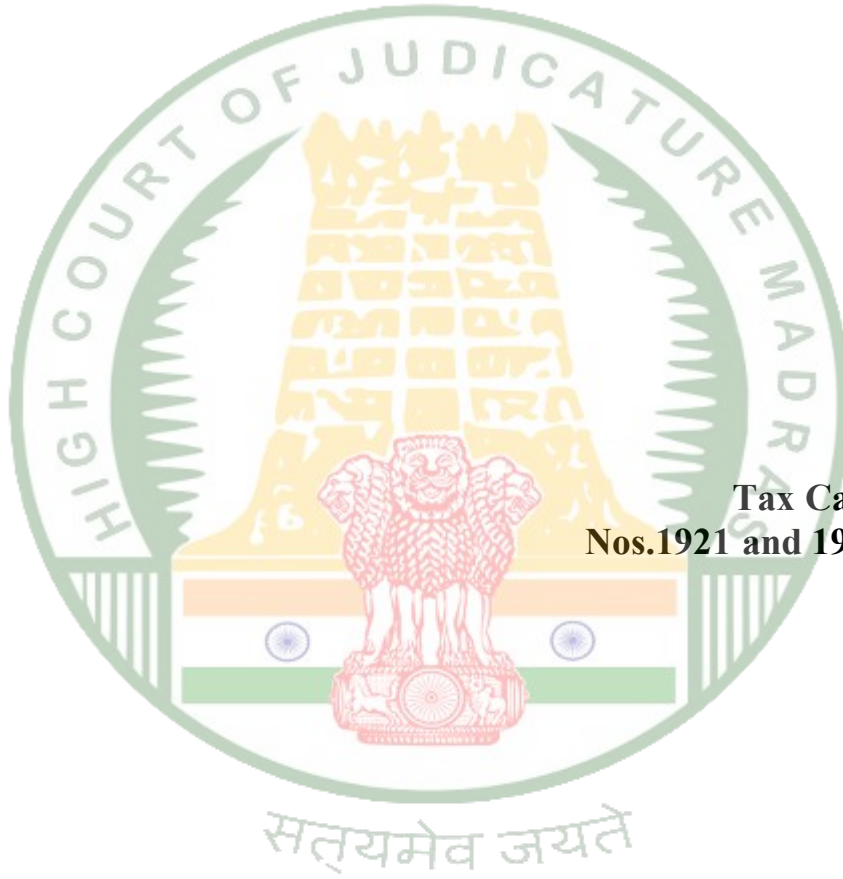
- 1.The Income Tax Appellate Tribunal, Madras “B” Bench
- 2.The Joint Commissioner of Income Tax,
Special Range – VIII,
Chennai.



WEB COPY

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

mkn



**Tax Case Appeal
Nos.1921 and 1924 of 2008**

WEB COPY

**17.02.2021
(7/7)**