IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.1412 of 2009

M/s. Rajkumar Impex Pvt. Ltd.,
B 603, Keshav Durga Apartments,
No.1, East Avenue,
Keshav Perumal Puram, R.A.Puram,
Chennai 600 028. ... Appellant

Vs.

The Income Tax Officer (OSD),
Company Circle V(3),
Chennai 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai dated 31.03.2009 passed in I.T.A.No.766/Mds/2008.

Appeal against the order dated 22/01/2008 made in C.No.3033/7/111/2006-07 on the file of the Commissioner of Income Tax, Chennai-111, Chennai, Appeal against the order dated 31/03/2006 made in PA No/GIR No.AAACR35773 on the file of the Income Tax Office (OSD) Company Circle-V(3), Chennai-34 for the Assessment Year 2003-04.

For Appellant :K.Venkatanarayanan
for Subbaraya Ayyar and Mr.Padmanabhan

For Respondent :Mr.T.Ravikumar
Senior Standing Counsel

J U D G M E N T

(Judgment was delivered by R. MAHADEVAN, J.)

This Tax Case Appeal has been filed by the appellant / Assessee challenging the order dated 31.03.2009 passed by the

Income Tax Appellate Tribunal, Bench 'D', Chennai ('the Tribunal', for brevity) in I.T.A.No.766/Mds/2008 for the Assessment Year 2003-2004.

2.The above appeal was admitted on 09.02.2010 on the following substantial questions of law :

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of the Commissioner of Income Tax under Section 263 of the Act?
>
> 2. Whether on the facts and in the circumstances of the case the Tribunal was right in law in upholding that the interest on Margin Money deposits for opening Letter of Credit and DEPB proceeds are not eligible for deduction u/s.801A of the Act?"

3.When the matter was taken up for consideration, the learned counsel appearing for the appellant / assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 15.4.2021 by the Income Tax Department. The learned counsel has also filed Form 3, dated 15.4.2021 to that effect.

4.The aforesaid submission made by the learned counsel for the appellant/assessee has also been fairly conceded by the learned senior standing counsel appearing for the respondent/ Revenue.

5.This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matters connected therewith or incidental thereto, which came into force with effect from 17.03.2020; and the declarations submitted by them were also accepted and Form 3 was also issued to the assessee by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial question of law arisen in this tax case appeal.

6.Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of, directing the department to process the application at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

msr
To

1.The Income Tax Appellate Tribunal,
Madras "D" Bench.

2.The Commissioner of Income Tax,
Chennai-III, Chennai.

3.The Income Tax Officer (OSD),
Company Circle V(3),
Chennai 600 034.

+1cc to M/s.Subbaraya Aiyyar, Advocate Sr.65059
+1cc to Mr.T.Ravikumar, Advocate Sr.64212

Tax Case Appeal No.1412 of 2009

rsv[co]
srg 27/12/2021