

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.02.2021

CORAM:

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

T.C.A.Nos.831 & 832 of 2009

M/s. Dharanidhara Spinning Mills P. Ltd.,
No.16-C, Rajaji Road,
Salem - 636 007.

... Appellant in both TCA

Vs.

The Commissioner of Income Tax.
Salem.

... Respondent in both TCA

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench, dated 08.08.2008 served on 22/09/2008 in ITA.Nos.2856 & 2857/Mds/2004 for the Assessment Years 2001-02 and 2002-03 against the order of the Commissioner of Income Tax (Appeals), Salem dated 25/08/2004 in ITA.Nos.144/03-04 and dated 27/08/2004 in ITA.No. No. 174/03-04 and against the order of the Deputy Commissioner of Income Tax, Company Circle - 1, Salem dated 03/09/2003 in PAN/GIR/No-IDCD 001 for the Assessment Year 2001-2002 and 2002-2003 respectively.

For Appellant : Mr. Chopra
(in both TCA)
For Respondent : Ms. R.Hemalatha,
(in both TCA) Standing Counsel

COMMON JUDGMENT

(Judgment was delivered by M. DURAIWAMY, J.)

These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the order dated 08.08.2008 made in ITA.Nos.2856 & 2857/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench (for brevity, the Tribunal) for the Assessment Years 2001-02 and 2002-03.

2.The appeals were admitted on 15.09.2009 on the following substantial questions of law:

“(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in upholding the levy of interests u/s 234B and 234C while computing the MAT under the deeming provisions of Sec.115JB of the Act?

(ii) Whether the Tribunal was correct in law in upholding the levy of interests when the provisions relating to advance tax in sections 207 to 211 are not applicable to the computation under chapter XII-B?

(iii) Whether the Tribunal was justified in law in upholding the levy of interests u/s 234B and 234C when such a charge is not specifically laid out by the provisions of Sec.115JB and in the absence of mandate in law, the levy of interest by implication was sustainable?

(iv) Whether the Tribunal was justified in holding that the levy of interests were valid though the computation u/s. 115JB is not a 'regular assessment' for giving effect to the provisions relating to advance tax?

(v) Whether on the facts and in the circumstances of the case, the Tribunal was justified in upholding the levy of interest in the computation u/s.115JB in the context of sec.219, where credit for advance tax is given in the 'regular assessment'?

(vi) Whether the decision of the Tribunal upholding the levy of interest was correct in law when the tax paid is to be given credit u/s. 115JAA over a five year period and hence only partakes the character of future tax not liable to the levy of interest? and

(vii) Whether the Tribunal ought to have followed the Supreme Court decision in the case of Kwaliti Biscuits reported in 284 ITR 434 as it applies on all fours to the issue on hand?”

.3. We have heard Mr. Chopra, learned counsel for the appellant and Ms. R.Hemalatha, learned Standing Counsel for the respondent.

4. 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.

5. We are informed by the learned counsel for the appellant that the assessee has already been issued with Form - 3 on 29.01.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeals.

6. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeals are dismissed as withdrawn. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Commissioner of Income Tax (Appeals),
Salem.

2. The Income Tax Appellate Tribunal,
Chennai, 'D' Bench.

3. The Deputy Commissioner of Income Tax,
Company Circle - 1,
Salem.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.5431

T.C.A.Nos.831 & 832 of 2009

AJS (CO)
GN(22/02/2021)