IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

Tax Case Appeal No.446 of 2020

M/s.Gee Gee Holdings P. Ltd.,
Old No.31, New No.6,
Dr.Radhakrishnan Salai 9th Street,
Mylapore, Chennai - 600 004. ... Appellant/Respondent

Vs.

The Income Tax Officer,
Ward - 2 (1),
Chennai. ... Respondent/Appellant

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 29.11.2019 passed in I.T.A.Nos.775/Chny/2013 for the assessment year 2008-09.

Agaisnt the proceedings of the Income Tax Appellate Tribunal, 'B' Bench, Chennai in MP.No.153/mds/2017 in ITA.No. 775/mds/2013 dated of order 12.01.2018 for the assessment Year 2008-09.

Against the proceedings of the Income Tax Appellate Tribunal 'B' Bench, Chennai made in ITA.No. 775/mds/2013 and CO.No.94/mds2013 dated 26/05/2016 for the assessment Year 2008-09.

Against the proceedings of the Commissioner of Income Tax (Appeals)-1, Coimbatore made in Appeal No. 569/10/11 date of order 07.01.2013 for the assessment Year 2008-09.

Against the Assistant Commissioner of Income Tax Company Circle II (2), Nungambakkam, Chennai -34 made in PAN/GIR No. AABCH1035D date of order 16/12/2010 fo the Assessment Year 2008-09.

For Appellant : Mr.M.Kaushik
for Mr.S.Sridhar

For Respondent : Mr.Karthick Ranganathan,
Senior Standing Counsel

J U D G M E N T

(Delivered by M.DURAISWAMY, J.)

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) are directed against the order dated 26.05.2016 passed by the Income Tax Appellate Tribunal "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.775/Chny/2013 for the assessment year 2008-09.

2.The above appeal was admitted on the following Substantial Questions of Law:

> “1)Whether the Appellate Tribunal was right in entertaining the issue of assessment of Rs.75,00,000/- despite the absence of ground of appeal forming part of the statutory form No.36 filed by the Revenue and accepted by the departmental representative during the course of the hearing of the appeal in 01.10.2019?
>
> 2)whether the Appellate Tribunal was within its jurisdiction in adjudicating an issue on merits despite an endorsement given by the departmental representative for not raising a ground on an issue in the capacity of the appellant before them?
>
> 3)Whether the Appellate Tribunal was correct in accepting the stand of the respondent/the Assessing Officer in bringing to tax Rs.75,00,000/- being the part of the arbitration award amount, which amount was arising from the arbitration award dated 08.04.2006 proving the sterilisation of source of income while fortifying the stand of the appellant company on treating such sum as capital receipt?
>
> 4)Whether the Appellate Tribunal was right in holding that the income of Rs.75,00,000/- had accrued during the assessment year under consideration despite the accepted position of the arbitration award dated 08.04.2006 falling within the assessment year 2007-08 while overlooking law declared consistently by the Supreme court on the principles of accrual accounting?
>
> 5)Whether the Appellate Tribunal is correct in confirming the assessment of notional interest as part of the taxable total income pertaining to the belated receipt of arbitration award amount is defying the principles of real income theory?”

3.We have heard Mr.M.Kaushik, learned counsel for the appellant/ assessee and Mr.Karthick Ranganathan, learned Senior Standing Counsel for the respondent/Revenue.

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/ assessee that the assessee had already been issued with Form - 3 on 02.03.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

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

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Madras "B" Bench

2.The Income Tax Officer, Ward - 2 (1), Chennai.

3.The Deputy Commissioner of Income Tax,
Corporate Circle 2 (1),
Chennai 34.

4.The Assistant Commissioner of Income Tax,
Company Circle - II (2),
Nungambakkam, Chennai 34.

5.The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.S.Sridhar, Advocate, S.R.No. 22661

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