IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

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

Tax Case Appeal No.174 of 2010

M/s.Oriental Hotels Limited,
37, M.G. Road, Nungambakkam,
Chennai - 600 034. ... Appellant

Vs.

The Assistant Commissioner of Income Tax,
Company Circle - V,
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 "B" Bench, dated 04.09.2009 passed in I.T.A.No.1923/Mds/2008, against the order of the Commissioner of Income Tax(Appeals)-V, Chennai in ITA.No.658/06-07 dt 22/02/2008 against the Assessment order dt 26/12/2006 by the Deputy Commissioner of Income Tax, Company circle V(1) Chennai for the Assessment year 2004-05.

For Appellant : Mr.R.Venkat Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

J U D G M E N T
(Delivered by M.DURAISWAMY, 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 04.09.2009 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.1923/Mds/2008 for the assessment year 2004-05. The above appeal has been admitted on 15.03.2010 on the following Substantial Questions of Law:

"1.Whether the Appellate Tribunal was right in law in holding that the appellant is not entitled to deduction under Section 35D as 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?

3.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that interest income earned on deposits, loans advanced to subsidiary companies and inter corporate dividends which were in the course of and for the purpose of business should be assessed as income from 'other sources' and not under the head profits and gains of the business?

4.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount received from British Airlines towards settlement of the bills of stay of their crew should not be included in the foreign exchange receipts of the appellant for the purpose of computation of deduction under Section 80HHD?

5.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the appellant is not entitled to set off of brought forward Long Term Capital Loss on sale of shares which were acquired in the course of amalgamation?"

2. We have heard Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, 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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

4. We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form-3 on 15.04.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. 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

//True Copy//

Sub Assistant Registrar

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

2.The Assistant Commissioner of Income Tax,
Company Circle - V,
Chennai.

3.The Commissioner of Income Tax(Appeals)-V,
Chennai.

4.The Deputy Commissioner of Income Tax
Company Circle V(1) Chennai.

+1cc to M/s.Subbaraya Aiyar, Advocate SR.26510
+1cc to M/s.T.Ravi kumar, Advocate SR.26249

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SS(CO)
CB(13/07/2021)