IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.03.2021
CORAM

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

Tax Case Appeal No.526 of 2010

M/s.Sumangala Steel (Pvt) Limited,
No.45, Chamiers Road,
Chennai - 600 028. ... Appellant/Respondent

Vs.

The Assistant Commissioner of Income-tax,
Company Circle VI,
Aayakar Bhavan, New Block, 7th Floor,
121, M.G.Road,
Chennai - 600 034. ... Respondent/Appellant

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, dated 20.03.2009 passed in I.T.A.No.576/Mds/2008, appeal against the order of the Commissioner of Income Tax(Appeals) - XII, Chennai, dated 30.11.2002, passed in ITA.No.233/05-06 for the Assessment year 1999-2000 against the order of the Income Tax Company Circle VI (4), Chennai, dated 24.03.2005 for the assessment year 1999-2000.

For Appellant : Mr.R.Sivaraman

For Respondent : Mr.J.Narayanaswamy
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), is directed against the order, dated 20.03.2009, passed by the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.576/Mds/2008 for the Assessment Year 1999-2000. The above appeal was admitted on 13.07.2010 on the following Substantial Questions of Law:

> "1.Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in law in confirming the disallowance of Rs.1,54,79,134/- holding that the same was not on allowable claim in respect of assessment year 1999-2000?
>
> 2.Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in law in not holding alternatively that the claim is allowable and ought to be allowed in respect of Assessment Year 1998-99 in view of the admitted position that the outstanding electricity dues related to the financial year relevant to the assessment year 1998-99?"

2. We have heard Mr.R.Sivaraman, learned counsel for the appellant/ assessee and Mr.J.Narayanaswamy, 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 06.03.2021 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 the appeal 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 Appeal stands 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 the appeal 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 the appeal 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, the Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

12.03.2021

To

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

2. The Assistant Commissioner of Income-tax,
   Company Circle VI,
   Aayakar Bhavan, New Block, 7th Floor,
   121, M.G.Road,
   Chennai – 600 034.

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

4. The Assistant Commissioner of
   Income Tax Company Circle VI(4),
   Chennai.

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SSI(CO)
CSR 09.04.2021