IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal Nos. 684, 685, 686, 687, 688, 689, 690, 691, 938,
939, 940, 941, 942, 943, 944 and 945 of 2010

Commissioner of Income Tax
Central III
Chennai ..Appellant/Petitioner in all

Versus

M/s. Vel Shree R. Rangarajan
Dr. Sankuntala Rangarajan Educational Academy
Shanti Sudha
Old No.24, New No.38
ABM Avenue
Chennai - 600 028
..Respondent/Respondent in TCA Nos.684 to 688/2010

M/s.Vel Trust,
Shanti Sudha
Old No.24, New No.38
ABM Avenue
Chennai - 600 028
..Respondent in TCA Nos.689, 690, 691/2010

M/s. Krishnaveni Carbon Products (P) Ltd.,
63/3, Athipalayam Road,
Chinnavedampatti,
Coimbatore.
..Respondent in TCA Nos.938, 939, 940/2010

M/s.Coimbatore Carbon
8-A, Malumichampatti,
Sidco Industrial Estate,
Coimbatore
..Respondent in TCA Nos.941, 942, 943/2010

Shri R.Ravichandran
..Respondent in TCA No.944/2010

R.Geetha
..Respondent in TCA No.945/2010

Appeal filed under Section 260-A of The Income Tax Act, 1961 against the Order dated
(i) 22.05.2009 passed in ITA No. 1732/Mds/2008
(ii) 22.05.2009 passed in ITA No. 1733/Mds/2008
(iii)22.05.2009 passed in ITA No. 1734/Mds/2008
(iv) 22.05.2009 passed in ITA No. 1735/Mds/2008
(v) 22.05.2009 passed in ITA No. 1736/Mds/2009
(vi) 22.05.2009 passed in ITA No. 1737/Mds/2009
(vii) 22.05.2009 passed in ITA No. 1738/Mds/2009
(viii) 22.05.2009 passed in ITA No. 1739/Mds/2009
(ix) 20.11.2009 passed in ITA No. 1809/Mds/2008
(x) 20.11.2009 passed in CO No. 92/Mds/2009
(xi) 20.11.2009 passed in ITA No. 1814/Mds/2008
(xii) 20.11.2009 passed in ITA No. 1808/Mds/2008
(xiii) 20.11.2009 passed in ITA No. 1810/Mds/2008
(xiv) 20.11.2009 passed in ITA No. 1811/Mds/2008
(xv) 20.11.2009 passed in ITA No. 670/Mds/2009
(xvi) 20.11.2009 passed in ITA No. 174/Mds/2009

respectively on the file of the Income Tax Appellate Tribunal, Chennai 'C' Bench
against the order dated 29.02.2008

(i) dated 29.02.2008 passed in ITA No.159/06-07
(ii) dated 29.02.2008 passed in ITA No.162/06-07
(iii) dated 29.02.2008 passed in ITA No.161/06-07
(iv) dated 29.02.2008 passed in ITA No.160/06-07
(v) dated 29.02.2008 passed in ITA No.245/06-07
(vi) dated 29.02.2008 passed in ITA No.157/06-07
(vii) dated 29.02.2008 passed in ITA No.40/06-07
(viii) dated 29.02.2008 passed in ITA No.246/06-07
respectively on the file of Commissioner of Income Tax Appeals-VI, Mahatma Gandhi Road, Chennai-34.
(ix) dated 24.06.2008 passed in ITA No.95C/2007-08
(x) dated 24.06.2008 passed in ITA No.95C/2007-08
(xi) dated 24.06.2008 passed in ITA No.95C/2007-08
(xii) dated 27.06.2008 passed in ITA No.98C/2007-08
(xiii) dated 27.06.2008 passed in ITA No.99C/2007-08
(xiv) dated 27.06.2008 passed in ITA No.100C/2007-08
(xv) dated 04.02.2009 passed in ITA No.119C/2007-08
(xvi) dated 07.11.2008 passed in ITA No.120C/2007-08
respectively on the file of the Commissioner of Income Tax Appeals II, Coimbatore.

against the order
(i) dated 19.09.2006 vide PAN No.AAATV4165B for the Assesment year 1999-2000
(ii) dated 19.09.2006 vide PAN No.AAATV4165B for the Assesment year 2000-2001
(iii) dated 19.09.2006 vide PAN No.AAATV4165B for the Assesment year 2001-2002
(iv) dated 19.09.2006 vide PAN No.AAATV4165B for the Assesment year 2002-2003

(v) dated 31.12.2007 vide PAN No.AAATV4165B for the Assesment year 2004-2005
(vi) dated 19.09.2006 vide PAN No.AAATV4164A for the Assesment

year 2002-2003
(vii) dated 17.03.2006 vide PAN No.AAATV4164A for the Assesment year 2003-2004
(viii)dated 31.12.2007 vide PAN No.AAAA2308K for the Assesment year 2004-2005
on the file of Commissioner of Income Tax, Circle II, Chennai-34
(ix) dated 31.12.2007 vide PAN No.AACCK0858R for the Assesment year 2004-2005
(x) dated 31.12.2007 vide PAN No.AACCK0858R for the Assesment year 2004-2005
(xi) dated 31.12.2007 vide PAN No.AACCK0858R for the Assesment year 2004-2005
(xii) dated 28.12.2007 vide PAN No.AAFFC4900B for the Assesment year 2003-2004
(xiii)dated 26.12.2007 vide PAN No.AAFFC4900B for the Assesment year 2004-2005
(xvi) dated 28.12.2007 vide PAN No.AAFFC4900B for the Assesment year 2005-2006
(xv) dated 28.12.2007 vide PAN No.ACDPR5052L for the Assesment year 2000-2001
(xvi) dated 28.12.2007 vide PAN No.AHAPG7234K for the Assesment year 2002-2003
respectively on the file of the Assistant Commissioner of Income Tax, Central Circle 1, Coimbatore.

For Appellant : Mr. J. Narayanasamy
(in TCA Nos.684 to 691, 938 and 940/2010)
For Respondent : Ms. Sri Niranjani
for Mr. G. Baskar
(in TCA Nos.684 to 691/2010)

For Appellant : Mr.M.Saminathan Sr.Standing Counsel for
M/s.K.G.Usha Rani Sr.Standing Counsel
(TCA Nos.941 to 945/2010)

For Respondent : Mr.Ashok Pathy for M/s.Pass Associates
(TCA Nos.938 to 945/2010)

COMMON JUDGMENT

(Judgment of the Court was delivered by R. Mahadevan, J)

These tax case appeals have been filed by the appellant/Revenue, calling in question the correctness of the various orders passed by the Income Tax Appellate Tribunal, Chennai.

2. When TCA Nos. 684 to 691 of 2010 were taken up for hearing on 13.12.2010, the following substantial question of law was raised by the appellant:-

"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the development fee collected as part of the fee from the students constituted capital receipts and did not have the character of income, on the basis of assessee's claim that such development fees were used for meeting capital expenditure."

3. When these appeals are taken up for consideration today, the learned counsel for the appellant/Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in these appeals is less than the threshold limit.

4. In the light of the above submissions made by the learned counsel for the appellant/Revenue, these appeals, wherein, the tax effect is said to be less than the monetary limit imposed, are dismissed as withdrawn, keeping open the substantial question of law for determination in an appropriate cases. No costs.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax,
Appellate Tribunal,
Chennai 'C' Bench.

2.The Commissioner of Income Tax Appeals-VI,
Mahatma Gandhi Road, Chennai-34.

3.The Commissioner of Income Tax Appeals II,
Coimbatore.

4.The Assistant Commissioner of Income Tax,
Central Circle 1, Coimbatore.

5.The Commissioner of Income Tax, Circle II,
Chennai-34.

+2ccs to MR.G.Baskar, Advocate SR. Nos.65096, 65097
+3ccs to Mr.M.Saminathan, Advocate SR. Nos.65367, 65368, 65369

TCA Nos. 684 of 2010

NRL (CO)
PR (21/03/2022)