IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

CORAM

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

Tax Case Appeal No.708 of 2010

The Commissioner of Income Tax,
Business Circle XVI,
Chennai. ... Appellant

v.

Shri M. Ponnusamy ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 26.06.2009 passed in ITA.No.1699/Mds/2008 for the Assessment Year 2004-05. Appeal against it o/o the commissioner of Income Tax(Appeals) XII, 121, Mahatma Gandhi Road, Nungmbakkam, Chennai 35 and made in ITA.No.257/2006-07 order dt.16/05/2008 and against the O/o the Joint Commissioner of Income Tax, Range XIV Chennai and made in PAN.NO.AAEPP4919R order dt:28/12/2000 for the Assesssment year 2004-05.

For Appellant : Mr. Karthik Ranganathan, Standing Counsel

For Respondent : Mr. V.P. Sengotuvel

J U D G M E N T
(Judgment was Delivered by M.DURAISWAMY, J)

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 26.06.2009 passed by the Income Tax Appellate Tribunal, "C" Bench, Chennai ('the Tribunal' for brevity) in I..TA.No.1699/Mds/2008 for the Assessment Year 2004-05.

2. The appeal was admitted on 09.11.2010 on the following Substantial Question s of Law:

"(i) Whether on the facts and in the circumstances of the case, the Tribunal is right in holding that joint venture could not be ignored for attracting section 2(22)(e) of the Act contrary to 229 ITR 444(SC)?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal is right in dismissing the appeal of the revenue when the legal fiction of deemed dividend under section 2(22)(2) comes into play as soon as the moneys paid by the company to the Assessee?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal is right in rejecting the addition without considering that the withdrawals made when there is a debit balance in the current account is treated as deemed dividend as per 76 ITR 369 (Bom) confirmed by the Apex Court in 105 ITR 642 (SC)?"

3. We have heard Mr. Karthik Ranganathan, learned Standing Counsel for the appellant and Mr.V.P. Sengotuvel, learned Standing Counsel for the respondent.

4. It may not be necessary for this Court to decide the Substantial Question 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 22.02.2021 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

//True Copy//

Sub Assistant Registrar

Rj

To

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

2.The Commissioner of Income Tax,
(Appeals)-XII, 121, Mahatma Gandhi Raod,
Nungambakkam,Chennai-34.

3.The Joint Commissioner of Income Tax,
Range, XIV, Chennai.

+1cc to M/s.V.Baranidharan, Advocate SR.10525

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RR(CO)
CB(18/03/2021)