IN THE HIGH COURT OF JUDICATURE AT Chennai

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.235 of 2011

M/s.Goldmine Investments,
No.2, Doraisamy Road,
T.Nagar, Chennai - 600 017. ... Appellant /Respondent

v.

The Deputy Commissioner of Income Tax,
Business Circle-1 ,
121, Nungambakkam High 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, Chennai 'A' Bench, Chennai, dated 19.01.2011 passed in I.T.A.No.2040/Mds/2007 for the Assessment Year 1996-97, and against the order of the Commissioner of Incoem Tax (Appeals-VI), Chennai 34, dated 25/04/2007 and made in ITA.No.70/2006-07 and against the order of the Deputy Commissioner of Income Tax Circle-I, Chennai dated 30/03/2004 made in PA/GIR No.AAAFG4524N/21336-G for the assessment year 1996-97.

For Appellant : Ms.Sriniranjani Srinivasan

For Respondent : Mr.T. Ravikumar
Senior Standing Counsel

J U D G M E N T
(Judgment was 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 19.01.2011 passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.2040/Mds/2007 for the

Assessment Year 1996-97.

2. The appeal was admitted on 02.12.2008 on the following Substantial Question of Law:

> " Whether on the facts and the circumstances of the case, the Income Tax Appellate Tribunal is right in law in conforming the penalty of Rs.62,32,794/- under section 271(1)(c) of the Income Tax Act, relating to the addition of Rs.1,55,81,985/- ?"

3. We have heard Ms.Sriniranjani Srinivasan, learned counsel for the appellant and Mr.T. Ravikumar, learned Senior Standing Counsel for the respondent.

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 has already filed the requisite Form 1 on 20.10.2020 under Section 4 of the Act.

6. 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 this 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 requisite Form 1 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 this 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.

7. With these observations, 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-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Deputy Commissioner of Income Tax,
   Business Circle-1 ,
   121, Nungambakkam High Road,
   Chennai - 600 034.

3. The Commissioner of Income Tax(Appeals)-VI,
   121, Mahatma Gandhi Road, Chennai-34.

+1cc to Mr.T.Ravindran, Advocate SR.9626
+1cc to Mr.G.Baskar, Advocate SR.9469

Tax Case Appeal No.235 of 2011

VG II(CO)
CB(29/03/2021)