IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.02.2021

CORAM:

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

T.C.A.No.261 of 2011

Shriram Chits Tamil Nadu (P) Ltd.,
No.149, Greams Road,
Mount Road,
Chennai – 600 006. ... Appellant

Vs.

The Income Tax Officer (OSD),
Company Circle VI (2)
No.121, Nungambakkam High Road,
Chennai – 600 034. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, Bench "A" Chennai, dated 26.11.2010 in I.T.A.No.1457/Mds/2010.

For Appellant : Mr.R.Sivaraman,

For Respondent : Mr.J.Narayanasamy,
Senior Standing Counsel

JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

Challenging the order passed in I.T.A.No.1457/Mds/2010 in respect of the assessment year 2003-04 on the file of the Income Tax Appellate Tribunal, "A" Bench, Chennai, the assessee has filed the above appeal.

2.The appellant is a Company carrying on business of running Chits governed by the Chit Funds Act, 1982. It acts as the foreman conducting the Chits. According to the appellant, each Chit group is run for a period of 40, 50 or 60 months with as many subscribers. If a 40 month Chit commences with 40 subscribers, every month there will be an auction where the subscribers can bid. The successful bidder is called the prized subscriber. If the monthly subscription is Rs.1,000/-, the total contribution of 40 subscribers would be Rs.40,000/-. The successful bidder may bid for Rs.35,000/-, offering a discount of Rs.5,000/-. Now, out of Rs.40,000/- collected, the foreman will pay Rs.35,000/- to the successful bidder and the balance amount of Rs.5,000/- is called the discount, out of which, the foreman will appropriate 5% on Rs.40,000/-

(i.e.) Rs.2,000/- as commission. The balance amount of Rs.3,000/- would be distributed among the 40 subscribers as dividend on pro rata basis, viz., Rs.3,000/40 = Rs.75/-. According to the appellant, it is also a subscriber receiving dividend. The commission is paid to the foreman, the appellant, to meet the expenses of conducting the Chits and the residue is his remuneration after meeting the expenses of running the Chit.

3.As per Section 21 (b) of the Chit Funds Act, the foreman is entitled to such amount not exceeding 5% of the Chit amount as may be fixed in the Chit Agreement, by way of commission remuneration or for meeting the expenses of running the Chit. Thus, commission is paid not only as remuneration, but also for meeting the expenses relating to the conduct of Chits.

4.In the appellant's case, for the assessment year 2003-04, the Assessing Officer completed the assessment on 17.03.2006 rejecting the appellant's claim that the foreman's dividend is exempt from taxation on grounds of mutuality. Aggrieved by the order passed by the Assessing Officer, the appellant filed an appeal before the Commissioner of Income Tax (Appeals) and the Appellate Tribunal also confirmed the action of the Assessing Officer by order dated 30.06.2010. Aggrieved by the order passed by the CIT (Appeals), the assessee filed an appeal before the Income Tax Appellate Tribunal and the Tribunal also confirmed the order passed by the CIT (Appeals) and dismissed the appeal on 26.11.2010. Aggrieved over the same, the assessee has filed the above appeal.

5.The above appeal was admitted on the following substantial question of law:

> "Whether in law, the dividends received by the appellant as a Chit subscriber, is exempt from taxation on ground of mutuality between all the chit subscribers including the appellant?"

6.It is pertinent to note that in identical circumstances, the Hon'ble

Division Bench of this Court in the judgment dated 16.09.2015 in T.C.A.Nos.641 & 642 of 2008, in respect of the same assessee, following the judgment of the Hon'ble Division Bench of this Court in **T.C.A.Nos.141 & 213 of 2004 [Shriram Chits and Investments (P) Limited Vs. The Assistant Commissioner of Income Tax]** and batch, **dated 30.08.2012** held against the assessee and dismissed the appeals. Similarly, the Hon'ble Division Bench of this Court by judgment **dated 09.04.2018 in T.C.A.No.908 of 2008**, following the judgment of the Hon'ble Division Bench of this Court in T.C.A.Nos.141 & 213 of 2004 and batch dated 30.08.2012, confirmed the order passed by the Income Tax Appellate Tribunal and dismissed the appeal.

7.The learned counsel appearing for the appellant – assessee has not produced any contra judgment in support of their case.

8.The ratio laid down in the above referred judgments squarely applies to the facts and circumstances of the present case. Following the same, the appeal is liable to be dismissed. We do not find any ground much less any substantial question of law to interfere with the order passed by the Income Tax Appellate Tribunal. The Tax Case Appeal is dismissed. No costs.

[M.D., J.] **[T.V.T.S., J.]**
04.02.2021

Index : Yes/No
Internet : Yes
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To

The Income Tax Appellate Tribunal, Madras, Bench "A"

M.DURAISWAMY, J.

and

T.V.THAMILSELVI, J.

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