IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM

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

Tax Case Appeal No.398 of 2011

The Director of Income Tax,
(International Taxation), Chennai. ... Appellant

Vs.

M/s.Ansaldo Energia SpA,
Via N.Lorenz 8,
16152 Genoa Italy,
C/o M/s.S.R.Batilboi & Co.,
TPL House, 3, Cenatoph Road,
Chennai - 600 018. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 11.03.2011 passed in I.T.A.No.1378/Mds/2010 against the order of the Commissioner of Income Tax(Appeals)-IV Chennai dated 06.05.2010 in Appeal No.CIT (A)-IV/CHE/65/09-10 for the Assessment year 2000-01 against the Assessmet order of the Assistant Director of Income Tax (International Taxation)Chennai dated 29.12.2006.

For Appellant : Mr.Karthick Ranganathan,
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

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

This appeal filed by the Department under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 11.03.2011 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1378/Mds/2010 for the Assessment Year 2000-01. The appeal was admitted on the following Substantial Question of Law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the interest under Section 234B levied by the Assessing Officer on the ground that interest ought to be levied only after reducing the amount of income tax which would be deductible at source during the financial year whereas the correct interpretation of Section 234B read with Section 209(1)(d) would be that when interest under Section 234 B was levied after the close of the financial year, the real shortfall after reducing the tax actually deducted at source should be taken into consideration?"

2. We have heard Mr.Karthick Ranganathan, learned senior standing counsel for the appellant/ Revenue and Mr.N.V.Balaji, learned Counsel for the respondent/assessee.

3. 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.

4. We are informed by the learned counsel for the respondent/assessee that the assessee has already filed the requisite Form - 1 on 31.01.2021 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 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 the 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.

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/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Registrar

Income Tax Appellate Tribunal, Madras "B" Bench

2.The Commissioner of Income Tax(Appeals-IV), Chennai

3.The Assistant Director of Income Tax,(International Taxation) Chennai

+1 cc to M/s.N.V.Balaji Advocate sr10859

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