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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

Tax Case Appeal No.412 of 2011

M/s. TTK Healthcare Limited,
6, Cathedral Road,
Chennai - 600 086. ... Appellant

v.

The Deputy Commissioner of Income Tax,
Company Circle – III (4),
Chennai. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 05.05.2011 passed in I.T.A.No.1389/Mds/2009 appeal against the order of the Commissioner of Incoem Tax (Appeals)-III, 121, M.G. Road, Chennai-34 made in ITA NO.545/07-08/A-III, date of order 09/06/2009 for the Assessment year 2002-03, appeal against the order of the Assistant Commissioner of Income Tax, Company Circle III(4), Chennai made in GIR NO.332011-T/875-V for the Assessment Year 2002-03, date of order 31.12.2007.

For Appellant : Mr.R.Venkat Narayanan
for M/s.Subbaraya Aiyar Padmanabhan & Ramamani

For Respondent : Mrs.V.Pushpa
Standing Counsel

J U D G M E N T
(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 05.05.2011 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.1389/Mds/2009 for the assessment year 2002-2003.

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2. The appeal was admitted on 26.09.2011 on the following substantial questions of law:-

> " 1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the appellant is not entitled to set off carry forward loss/unabsorbed depreciation of the amalgamating company in terms of provisions of Section 72A read with Rule 9C?
>
> 2.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Company has failed to attain the requisite 50% production in the first year of amalgamation and has failed to comply with the provisions of Section 72A read with Rule 9C of the Income Tax Rules?
>
> 3.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the unabsorbed depreciation was not liable to be added to WDV since the assessee has dismantled Machines when the facts are entirely different for the assessment year under consideration?"

3. We have heard Mr.R. Venkat Narayanan, learned counsel for the appellant/assessee and Mrs.V.Pushpa, learned counsel for the respondent/Revenue.

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 had already been issued with Form-3 on 03.05.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

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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(CS-CCC)

//True copy//

Sub Assistant Registrar

mtl

To

1. Income Tax Appellate Tribunal, Madras "C" Bench

2.The Deputy Commissioner of Income Tax,
Company Circle – III (4),
Chennai.

3. The Commissioner of Incoem Tax (Appeals)-III,
121, M.G.Road, Chennai-34.

4. The Assistant Commissioner of Incoem Tax,
Company Circle II(4),
Chennai-34.

+1cc to M/s.Subbaraya Aiyar Padmanabhan & Ramamani, Advocate SR.No.29118

+1cc to Mr.M.Swaminathan, Advocate SR.No.29115

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SR-II(CO)
GMY(19/07/2021)