IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM

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

Tax Case Appeal No.419 of 2011

Commissioner of Income Tax
Salem. ... Appellant/Appellant

Vs.

M/s.Thakadoor Spinning Mills (P) Ltd.,
1-C, Ramaliga Chetty Street,
Dharmapuri - 636 701. ... Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "B" Bench, dated 19.04.2011 passed in I.T.A.No.258/Mds/2011 against the order of the commissioner of Income Tax Appeals II Coimbatore dated 14.12.10 in ITA No 398/08-09 in the assessment year 2005-06.

against the order of the Additional Commissioner of Income Tax, coimbatore dated 28.7.09 CRI(44) penalty/CR/CBE 09-10 in the assessment year 2005-2006

against the order of the Assistant Commissioner of Income Tax Central Circle I coimbatore dated 24.12.07 PAN/GIR No.AAACT9935G in the assessment year 2005-06.

For Appellant : Mrs.V.Pushpa
Standing Counsel

For Respondent : Ms.Sri Niranjani Srinivasan

J U D G M E N T
(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 19.04.2011 passed by the Income Tax Appellate Tribunal, Chennai "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.258/Mds/2011 for the assessment year 2005-

06. The above appeal has been admitted on 27.09.2011 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 deleting the penalty under Section 271D of Rs.1,24,30,807/- levied by the Additional Commissioner of Income Tax on the ground that the assessee had made borrowings in cash exceeding Rs.20,000/- in violation of Section 269SS, holding that the transactions were genuine even though the assessee had not established any reasonable cause within the meaning of Section 273B?
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> 2.Without prejudice to the proceeding question, whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not making a distinction in the matter of cash loans to the extent of Rs.1.13 Crores which were deposited in the bank account and not holding that the assessee's explanation of the urgent needs to make cash payments would not be satisfied in respect of the said amount especially when the assessee could have accepted cheques and deposited the same in the bank accounts?"

2. We have heard Mrs.V.Pushpa, learned Standing Counsel for the appellant/Revenue and Ms.Sri Niranjani Srinivasan, learned counsel for the respondent/assessee.

3. 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.

4.Learned counsel for the respondent/assessee submitted that the assessee had availed the Vivad Se Vishwas Scheme and that the respondent/assessee had already been issued with Form-3 on 06.01.2021.

5.Since the respondent/assessee had been issued with Form-3, nothing survives for adjudication in the above appeal. Recording the submission made by the learned counsel for the respondent/assessee, the Tax Case Appeal stands disposed of. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax Appeals II,
Coimbatore.

3.The Assistant Commissioner of Income Tax,
Central Circle I,
Coimbatore.

4.The Additional Commissioner of Income Tax,
Coimbatore.

5.The Commissioner of Income Tax,
Salem.

+1cc to MR.G.BASKAR, ADVOCATE, SR.NO. 18840
+1CC TO MR.M.SWAMINATHAN, ADVOCATE, SR.NO. 18939

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