IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

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

Tax Case Appeal No.617 of 2011

M/s.Digivision Electronics Ltd.,
4, Morrison Fourth Street,
Alandur,
Chennai - 600 016. ... Appellant

Vs.

The Assistant Commissioner of Income Tax,
Company Circle - I(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, Chennai "B" Bench, dated 09.09.2011 passed in I.T.A.No.1379/Mds/2010 against the order of the Commissioner of Income Tax Appeals III,chennai dated 06.08.2010 in ITA.NO.260/2008-2009/ A III for the Assessment Year 2003-2004.

Against the order of the Assistant Commissioner of Income Tax Company Circle I (4),Chennai dated 29.12.2008 in PA.GIR NO.AACD 2691 K for the Assessment Year 2003-2004.

For Appellant : Mr.M.Kaushik
for Mr.S.Sridhar

For Respondent : Mr.T.Ravikumar
Senior 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 09.09.2011 passed by the Income Tax Appellate Tribunal, Chennai "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.1379/Mds/2010 for the assessment year

2003-2004. The appellant has raised the following substantial questions of law in the above appeal.

> "(1) Whether the Appellate Tribunal is correct in law in sustaining the action of the respondent in framing the re-assessment under Section 147 of the Act even though there were no fresh materials to form the reasonable belief on the escapement of income from assessment as well as there was no concession against invalid assumption jurisdiction under Section 147 of the Act?
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> (2) Whether the Appellate Tribunal is correct in law in rejecting the claim of expenses of Rs.1,62,75,000/- in the computation of Long Term Capital Gains within the scope of Section 48 of the Income Tax Act, 1961 even though such claim of expenses were incurred in connection with and for removing encumbrance on the property / capital asset?"

The above appeal was admitted on 24.01.2012 as far as the second substantial question of law is concerned.

2. We have heard Mr.M.Kaushik for Mr.S.Sridhar, learned counsel for the appellant/ assessee and Mr.T.Ravikumar, learned Senior Standing Counsel for the respondent/Revenue.

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. We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form-3 on 12.01.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant/assessee, the Tax Case Appeal stands dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Income Tax,
Company Circle - I(4),
Chennai.

3.The Commissioner of Income Tax Appeals III,
121, Mahathma Gandhi Road,chennai 34.

+2ccs to Mr.Ravi kumar , Advocate SR.No. 11563 & 11073
+1cc to Mr.Sridhar, Advocate SR.No. 11087

Tax Case Appeal No.617 of 2011

A.SK(10.03.2021)