IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM

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

W.A.No.1110 of 2021
and C.M.P.No.7005 of 2021

1.The Joint Commissioner of Income Tax,
Transfer Pricing Officer - 2,
Room No.511, 5th Floor,
Tower - 1, BSNL Building,
No.16, Greams Road,
Chennai - 600 006.

2.The Assistant Commissioner of Income Tax,
Corporate Circle - 1(2),
6th Floor, Wanaparthy Block,
Aayakar Bhawan, Nungambakkam,
Chennai - 600 034. ... Appellants/ Respondents

Vs.

M/s.BGR Boilers Pvt. Ltd.,
rep by Authorized Signatory R.N.S.Tomar,
443, Guna Building, Anna Salai,
Teynampet, Chennai - 600 018. ... Respondent/ Petitioner

Appeal filed under Clause 15 of Letters of Patent against the final order passed on 07.09.2020 in W.P.No.35485 of 2019.

PRAYER in W.P.No.35485 of 2019:- Petition filed under Article 226 of the constitution of India praying for the issuance of writ of certiorari calling for the records on the file of first Respondent in passing the impugned Order No.ITBA/TPO/F/92CA3/2019-2020/1019692338(1) for the Assessment Year 2016-2017 under section 92CA(3) of the Income tax Act 1961 Dated 01/11/2019, quash the same as illegal arbitrary and devoid of merit.

For Appellants : Mr.Prabhu Mukunth Arunkumar

For Respondent : Mr.N.V.Balaji

J U D G M E N T

(Order of the Court was delivered by M.DURAISWAMY, J.)

The appeal filed by the Department under Clause 15 of Letters of Patent is directed against the order dated 07.09.2020 made in W.P.No.35485 of 2019.

2.We have heard Mr.Prabhu Mukunth Arunkumar, learned counsel for the appellant/Revenue and Mr.N.V.Balaji, learned counsel for the respondent/assessee.

3.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.The learned counsel for the respondent/assessee submitted that the respondent/assessee had availed Vivad Se Vishwas Scheme and that the Department had also issued Form - 3 on 15.03.2021.

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 the 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 Writ Appeal stands disposed of on the ground that the assessee has already been issued with Form - 3 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 the 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 Writ Appeal stands disposed of with the aforementioned liberty. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

VA

TO

1. Joint Commissioner of Income,
   Tax Transfer Pricing Officer-2,
   Room No 511,5th Floor Tower -I,
   BSNL Building No. 16,
   Greams Road Chennai 600 006.

2. Assistant Commissioner of Income Tax,
   Corporate Circle 1(2) 6th Floor,
   Wanaparthy Block,Aayakar Bhawan,
   Nungambakkam, Chennai 600 034.

+1cc to Mr.N.V.Balaji, Advocate, S.R.No. 27990

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CP(CO)
CT(14/07/2021)