IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

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

Tax Case Appeal No.95 of 2012

M/s.Maruwa Electronic (India) Pvt. Ltd.,
180A, New No.126,
Mount Poonamallee Road,
Porur, Chennai - 600 116. ... Appellant

Vs.

Commissioner of Income Tax II,
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 25.08.2011 passed in I.T.A.No.2069/Mds/2010, Assessment Year 2006-07. Preferred against the order passed by the Commissioner of Income Tax (Appeals)-V, Chennai-34 dated 15.09.2010 made in ITA No.23/09-10 preferred against the order passed by the Assistant Commissioner of Income Tax, Company Circle IV(1), Chennai-34 dated 08/12/2008 in PAN.GIR No.AAECM2281L/MA576 for the Assessment year 2006-07.

For Appellant : Mr.V.S.Jayakumar

For Respondent : Mr.Karthik Ranganathan
Senior Standing Counsel and
Mr.S.Rajesh
Standing Counsel

JUDGMENT

(Delivered by M. DURAISWAMY, J)

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order, dated 25.08.2011, passed by the Income Tax

Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.2069/Mds/2010 for the Assessment Year 2006-07. The above appeal was admitted on 12.03.2012 on the following Substantial Questions of Law:

> "1.Whether in the facts and circumstances of the appellant's case, the Income Tax Tribunal was justified in law in coming to the conclusion that part of appellant's business being manufacturing activity had not been commenced during the provisions relevant to Assessment Year 2006-07 and justified in law in reversing Commissioner of Income Tax (Appeals) order?
>
> 2.Whether the Income Tax Appellate Tribunal was justified in coming to the legal conclusion that the appellant had not commenced the business of manufacturing activity and that the appellant is not entitled to allowance of Rs.1,07,11,191/- as a deduction ignoring several items of relevant evidence brought on record and placed before the Tribunal and ignoring the significant evidence that appellant had carried on agency business which was part of a single business with, inter alia, interlacing of funds common management and control?"

2. We have heard Mr.V.S.Jayakumar, learned counsel for the appellant/ assessee and Mr.Karthik Ranganathan, learned Senior Standing Counsel and Mr.S.Rajesh, learned 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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

4. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Forms 1 & 2 on 29.01.2021 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 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 Tax Case Appeal stands disposed of on the ground that the assessee has already filed the requisite Forms 1 & 2 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 Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

MKN

To

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

2. The Commissioner of Income Tax II, Chennai.

3. The Commissioner of Income Tax (Appeals)-V,
   Chennai-34

4. The Assistant Commissioner of Income Tax,
   Company Circle IV(1), Chennai-34

5. The Deputy Commissioner of Income Tax,
   Company Circle IV(1), Chennai-34

+1cc to Mr.V.S.Jayakumar, Advocate, S.R.No.20507

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(1/2)

PM(CO)
TE(23/04/2021)