IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case Appeal Nos.1017 to 1019 of 2015

The Commissioner of Income Tax - II
121, Nungambakkam High Road,
Chennai - 600 034. ... Appellant in all 3 TCAs

Vs.

M/s.Life Cell International P. Ltd.,
No.26, Vandalur Kelambakkam Road,
Keelkottaiyur,
Chennai - 600 048. ... Respondent in all 3 TCAs

Appeals filed under Section 260A of the Income Tax Act, 1961 against the orders of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 08.04.2015 passed in I.T.A.Nos.2849 to 2851/Mds/2014, 2005-2006, 2007-2008 and 2009-2010 against the order of the Commissioner of Income Tax (Appeals)-II, Chennai dated 10.06.2014 in ITA Nos.510, 515 & 1607/13-14, G.I.No/P.A.No.AAECA 7997B for the Assessment Year 2005-2006, 2007-2008 and 2009-2010.

For Appellant (in all 3 TCAs) : Mr.S.Rajesh, Standing Counsel

For Respondent (in all 3 TCAs) : Mr.R.Sivaraman

COMMON JUDGMENT
(Delivered by M.DURAISWAMY, J.)

The appeals filed by the Department under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the orders dated 08.04.2015 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for brevity) in I.T.A.Nos.2849 to 2851/Mds/2014 for the assessment year 2005-06, 2007-08 and 2009-10.

2.The above appeals were admitted on the following Substantial Questions of Law:

> "1)Whether on the facts and circumstances of the case, the Appellate Tribunal is correct in holding that the storage fee collected by the assessee in lumpsum cannot be treated as income of the year of receipt which is contrary to Section 5 (1) of the Income Tax Act?
>
> 2)Whether on the facts and in the circumstances of the case and in law, the Tribunal is correct in holding that the lumpsum fee collected for 21 years is to be taxed on pro rata basis when the assessee is following Mercantile System of accounting?"

3.We have heard Mr.S.Rajesh, learned Standing counsel for the appellant/Revenue and Mr.R.Sivaraman, learned counsel for the respondent/assessee.

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.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 30.12.2020 in all the three Tax Case Appeals.

6.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 thes appeals 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 Appeals stand disposed of on the ground that the assessee has already been issued with Form - 3 in all the three Tax Case Appeals 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 these appeals 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 appeals 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.

7.With this observation, the Tax Case Appeals stand disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Madras "D" Bench

2. The Commissioner of Income Tax(II)
121, Nungambakkam, High Road, Chennai-34.

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

+3cc to Mr.R.Sivaraman, Advocate SR.No.24793, 24794, 24795

Tax Case Appeal Nos.1017 to 1019 of 2015

SMI(CO)
GMY(01/07/2021)