IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.1219 of 2015

M/s Erode Annai Spinning Mills P Ltd
72, Mudali Thottam
Veerappanchatram
Erode – 638 004
PAN: AAACE4596N ... Appellant

Versus

The Assistant Commissioner of Income Tax
Central Circle – I
Coimbatore. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, “A” Bench, Chennai, dated 30.09.2015 passed in I.T.A.No.1389/Mds/2015 for the Assessment Year 2008-09, against the order of Commissioner of Income Tax Appeals-18, Chennai-34 dated 31.03.2015 in ITA No.470/14-15, and Commissioner of Income Tax (Appeals)-II, Coimbatore, dated 23.09.2013, in I.T.A.No.05/10-11 PAN/TAN-AAACE4596N, and Reassessment order of Deputy Commissioner of Income Tax, Central Circle-II (i/c), Coimbatore, dated 31.03.2013 in PAN/GIR No.-AAACE4596N, and arising out of the Assessment Order of Assistant Commissioner of Income Tax, Central Circle-II, Coimbatore, dated 31.12.2009 in PAN/GIR No.AAACE4596N.

For Appellant : Mr.S. Sridhar

For Respondent : Mrs.K.G. Usha Rani
Standing Counsel

J U D G M E N T

(Judgment was delivered by R. MAHADEVAN, 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 30.09.2015 passed by the Income Tax Appellate Tribunal, "A" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1389/Mds/2015 for the assessment year 2008-09.

2. The above appeal was admitted on 05.01.2016 on the following substantial questions of law :

> "1.Whether the Appellate Tribunal is correct in law in confirming the re-assessment framed under Section 147 of the Act even though there was no tangible/fresh materials coupled with blatant case of opinion on the plain reading of the original assessment order dated 31.12.2009?
>
> 2.Whether the Appellate Tribunal is correct in law in confirming the denial of the benefit of set off the excess depreciation carried forward from earlier assessment years against the deemed income assessed under section 69B of the Act emanated from the core business of the appellant on the miconstruction of the provisions governing in relation thereto?"

3. When the matter was taken up for consideration, the learned counsel appearing for the appellant/ Assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 29.03.2020 by the Income Tax Department. The learned counsel has also filed a memo dated 21.10.2021 to that effect.

4. The aforesaid submission made by the learned counsel for the appellant/assessee has also been fairly conceded by the learned standing counsel appearing for the respondentRevenue.

5. This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matters connected therewith

or incidental thereto, which came into force with effect from 17.03.2020; and the declarations submitted by the assessee were also accepted and Form 3 was also issued to them by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial questions of law arisen in this tax case appeal.

6.Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of, directing the department to process the application in accordance with the Act and communicate the decision to the assessee at the earlies. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dhk

To

1. The Income Tax Appellate Tribunal
   Bench 'A',
   Chennai.

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

3. The commissioner of Income Tax-Appeals-18,
   Chennai-34.

4. The Commissioner of Income Tax (Appeals-II),
   Coimbatore.

5. The Deputy Commissioner of Income Tax,
   Central Circle (II) (i/c),
   Coimbatore.

6. The Assistant Commissioner of Income Tax
   Central Circle -II,
   Coimbatore.

+1cc to M/s.K.G.Usharani, Advocate Sr.58319

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pmk[co]
srg 27/12/2021