IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM

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

Tax Case Appeal No.239 of 2015

The Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

M/s.Tamil Nadu Petroproducts Ltd.,
No.9, Manali Express Road,
Manali, Chennai - 600 068. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "C" Bench, dated 24.02.2012 passed in I.T.A.No.458/Mds/2010.

Appeal against the order of the Commissioner of Income Tax (Appeals) LARGE TAXPAYER UNIT, II Floor, 1775, Jawarhalal Nehru Inner Ring Road, Anna Nagar Western Extension, Chennai-101 made in ITA No.30/09-10/LTU(A), order dated 23/11/2010, Assessment year 2002-03

Appeal against the order of the Assistant Commissioner of Income Tax, Large Taxpayer Unit, Chennai made in PAN No.AAACT1295M order dated 23/11/2009, Assessment year 2002-03.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar

JUDGMENT

(Delivered by M.DURAISWAMY, J.)

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 24.02.2012 passed by the Income Tax Appellate Tribunal, Chennai "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.458/Mds/2010 for the assessment year 2003-04. The above appeal has been admitted on 21.07.2015 on the following Substantial Questions of Law:

> "1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the cessation of liability under Section 41(1) takes place that too only when the dispute is ultimately settled, especially when the assessee is following mercantile system of accounting?
>
> 2.Whether the finding of the Tribunal is proper by applying Section 41(1) which speaks about cessation or remission of liability while so in the present case the issue relates to refund granted pursuant to High Court order on 10.06.2002?
>
> 3.Is not the finding of the Tribunal bad by holding that cessation of liability takes place under Section 41(1) when the issue relates to refund granted by virtue of Court order?"

2. We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar, learned counsel for the respondent/assessee.

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.Learned counsel for the respondent/assessee submitted that the assessee had availed the Vivad Se Vishwas Scheme and that the respondent/assessee had already been issued with Form-3 on 05.01.2021.

5.Since the respondent/assessee had been issued with Form-3, nothing survives for adjudication in the above appeal. Recording the submission made by the learned counsel for the respondent/assessee, the Tax Case Appeal stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Commissioner of Income Tax (Appeals)
   LARGE TAXPAYER UNIT,
   II Floor, 1775, Jawarhalal Nehru Inner Ring Road,
   Anna Nagar Western Extension, Chennai-101

4. The Assistant Commissioner of Income Tax,
   Large Taxpayer Unit,
   Chennai.

+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.20970
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.20998

Tax Case Appeal No.239 of 2015

SR-II(CO)
TE (28/04/2021)