IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

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

Tax Case Appeal No.465 of 2015

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

Vs.

M/s.Dharmsee Paripia,
A-1, Hamra, No.1, Kothari Road,
Nungambakkam, Chennai - 600 034. ... 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 13.02.2015 passed in I.T.A.No.2309/Mds/2014.

And against order of the commissioner of Income Tax, (Appeals -V), Nungambakkam, chennai 34 and made in ITA.No. 444/13-14 (A)-V and dated 26/05/2014 and against the order of the Income Tax Officer Business Ward XV(2), Chennai 34, and made in PAN.No.AAAFD1896P order dated 30/03/2013 for the Assessment Year 2010-11

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.Rahul Unnikrishnan

J U D G M E N T
(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 13.02.2015 passed by the Income Tax Appellate Tribunal, Chennai "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.2309/Mds/2014 for the assessment year 2010-11. The above appeal has been admitted on 22.07.2015 on the following Substantial Questions of Law:

"1.Whether on the facts and circumstances of the case, the Tribunal was right in holding that the disallowance made by the Assessing Officer on account of short term capital loss of Rs.17,63,12,240/- is to be allowed and to be treated as a genuine transaction?

2.Is not the finding of the Tribunal bad by holding that there was no colourable device involved in setting off the short term capital loss against the long term capital gains especially when the assessee had invested Rs.18,13,50,000/- in the shares of a loss making company and sold the same within a period of 11 days after acquiring it at the rate of 1/40th of the issue price?"

2. We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mr.Rahul Unnikrishnan, learned counsel appearing 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 Senior Counsel appearing for the appellant/Revenue submitted that the respondent/assessee had availed the Vivad Se Vishwas Scheme and that the respondent/assessee had already been issued with Form-3 vide Reference No.973239070311220.

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 Senior Counsel for the appellant/Revenue, 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. Income Tax Appellate Tribunal,

Chennai "C" Bench

2.The Commissioner of Income Tax,
Chennai.

3.The Income Tax Officer,
Business Ward XV (2),
Chennai 34.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No. 24552

Tax Case Appeal No.465 of 2015

RR(CO)
GN(23/06/2021)