

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.161 of 2013

M/s.Vijay Dairy & Farm Products (P) Ltd.,
Tiruchy Thuraiyur Main Road,
Peramangalam Village, Musiri Taluk,
Tiruchy. Appellant/Respondent

Vs.

The Commissioner of Income Tax,
Tiruchirapalli. Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 28.08.2012 passed in I.T.A.No.1059/Mds/2011, Assessment Year 2001-02 against the order of the Commissioner of Income Tax (Appeals, Trichirapalli, dated 11/03/2011 passed in I.TA No.245/07-08, Assessment Year 2001-02 and against the order of the Assistant Commissioner of Income Tax, Company Circle-II, Trichy, dated 13.02.2007 passed in PAN/GIR No.AAACV2113N for the Assessment Year 2001-2002.

For Appellant : Mr.V.S.Jayakumar

For Respondent : Mr.M.Swaminathan
Senior Standing Counsel and
Mrs.V.Pushpa
Standing Counsel

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J U D G M E N T

(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 28.08.2012, passed by the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1059/Mds/2011 for the Assessment Year 2001-02. The above appeal was admitted on 01.04.2013 on the following Substantial Question of Law:

"Whether in the facts and circumstances of the case, the learned Income Tax Appellate Tribunal was right in law in not dismissing the Department's appeal for the assessment years 2001-2002, 2002-2003 and 2003-2004 by holding that the CIT(A) was right in law in allowing the assessee appellant's appeals holding that the appellant as a small scale industrial undertaking operating a cold storage plant is eligible for full relief under Section 80IA (iv) (d) and 80IB(3) of the Income Tax Act, 1961?"

2. We have heard Mr.V.S.Jayakumar, learned counsel for the appellant/ assessee and Mr.M.Swaminathan, learned Senior Standing Counsel and Mrs.V.Pushpa, learned Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Question 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. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Forms 1 & 2 on 28.03.2021 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

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 Question of Law is left open. No costs.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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To

- 1.The Income Tax Appellate Tribunal,
Madras "A" Bench
- 2.The Commissioner of Income Tax,
Tiruchirapalli.
3. The Assistant Commissioner of Income Tax
Company Circle-II, Trichy

+1cc to Mr.V.S.Jayakumar, Advocate SR.No.20504

+1cc to Mr.M.Swaminathan, Advocate SR.No.20519

सत्यमेव जयते

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GMV (22/06/2021)

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