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 NO.208 OF 2013

M/s.Rajanarayan Textiles Ltd.,
No.70, Race Course Road,
Coimbatore - 641 018. ... Appellant

Vs.

The Commissioner of Income Tax,
Coimbatore. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 12.12.2012 passed in I.T.A.No.1406/Mds/2012.

Against the order passed by the Commissioner of Income Tax (Appeals)-I, Coimbatore dated 04.04.2012 made in PAN Number AABCR0320G for the Assessment Year 1995-96.

For Appellant : Mr.R.Kumar

For Respondent : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

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 12.12.2012 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A. 1406/Mds/2012 for the Assessment Year 1995-96.

2.The above appeal was admitted on the following Substantial Questions of Law for consideration:

"1)Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in not referring to and adjudicating the ground regarding limited scope of the appeal proceedings before the Commissioner (Appeals) pursuant to the directions of the Hon'ble Supreme Court in the appellant's own case?

2)Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in disallowing the claim of expenditure on replacement of machinery as revenue expenditure more so in the contest of the latest Full Bench decision of the Hon'ble Supreme Court in the case of CI TVs. Bojraj Textiles Mills Limited and also another Bench decision of the Supreme Court in the case of CIT Vs. Hindustan Textiles which was rendered after the decision of the Supreme Court in the case of CIT Vs. Sri Mangayarkarasi Mills Pvt. Ltd. (315 ITR 114)?"

3. We have heard Mr.R.Kumar, learned counsel for the appellant/assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent/Revenue.

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.We are informed by the learned counsel for the appellant/ assessee that the assessee has already been issued with Form - 3 on 29.01.2021 and seeks the permission of this Court to withdraw the appeal with liberty.

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 this 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 is dismissed as withdrawn on the ground that the assessee has already been issued with Form - 3 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 this 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 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 Appeal is dismissed as withdrawn with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Madras "B" Bench

2. The Commissioner of Income Tax, Coimbatore.

3. The Commissioner of Income Tax(Appeals)-I, Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.24208

Tax Case Appeal No.208 of 2013

LN(CO)
CS/23/06/2021