IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM

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

Tax Case Appeal No.366 of 2013

M/s. Caress Beauty Care Products Private Limited
Represented by its Authorised signatory,
4th Floor, Gokul Arcade No.2,
Sardar Patel Road,
Adyar, Chennai - 600 020. ... Appellant

vs.

The Commissioner of Income Tax,
Chennai - 1 Commissionerate,
No.121, Mahatma Gandhi Road,
Chennai - 600 034. ... Respondent

PRAYER: 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 15.01.2013 passed in ITA.No.79/Mds/2011 for the Assessment Year 2006-07, preferred against the order of the Commissioner of Income Tax, Chennai-1, Chennai -34, dated 25.11.2010 made in C.No. 218(5)/263/2010-11, against the order passed by Assistant Commissioner of Income Tax, Company Circle I (3), Chennai, dated 03.12.2008, made in GIR/PAN.No. AABCC2016N for the assessment Year 2006-2007.

For Appellant : Ms. G. Janani
for M/s. Lakshmi Kumaran
For Respondent : Mr.T. Ravikumar
Standing Counsel

J U D G M E N T
(Judgment was Delivered by M.DURAISWAMY, 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 15.01.2013 passed by the Income Tax Appellate Tribunal, "A" Bench, Chennai ('the Tribunal' for brevity) in I..TA.No.79/Mds/2011 for the Assessment Year 2006-07.

2. The appeal was admitted on 25.06.2013 on the following Substantial Question of Law:

> " (i) Whether on a true interpretation of section 801B(3), the Appellate Tribunal is justified in holding that for the purpose of computing the deductions under Section 801B of the Act, the industrial undertaking should remain a small scale undertaking in each previous year when the deduction is claimed under the provisions of the Act?
>
> (ii) Whether the ITAT is right in holding that the CIT was justified in invoking the provisions of Section 23 ignoring the settled legal position that where two views are possible in respect of an issue, an order passed by the Assessing Officer cannot be considered to be an erroneous order prejudicial to the interest erst of the Revenue ?"

3. We have heard Ms. G. Janani, learned counsel for the appellant and Mr.T.Ravikumar, learned Standing Counsel, learned Standing Counsel for the respondent.

4. 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.

5. We are informed by the learned counsel for the appellant that the assessee has already been issued with Form - 3 on 29.12.2020 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

6. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Commissioner of Income Tax,
Chennai - 1 Commissionerate,
Chennai - 600 034.

3.The Assistant Commissioner of Income Tax,
Company Circle I (3),
Chennai.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No. 6360

Tax Case Appeal No.366 of 2013

SSV(CO)
GN(26/02/2021)