IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

Tax Case Appeal No.864 of 2013

Commissioner of Income-tax,
Chennai. ... Appellant

Vs.

M/s.Rajkumar Impex Private Limited
B 603, Keshava Duar Apartments,
1, East Avenue, Kesavaperumalpuram,
R.A.Puram, Chennai - 600 028. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "B" Bench, dated 11.02.2013 passed in I.T.A.No.1746/Mds/2012 against the order of the Commissioner of Income Tax (Appeals) VI,dated 22.06.2012 in ITA.NO.103/2010-2011 for the Assessment Year 2003-2004 in proceedings under section 143(3) rws.263 of the Income Tax Act 1961 against the order dated 25.09.2008 passed by the Assistant commissioner of Income Tax,Company Circle V(3), Chennai 34 against the Assessment order passed by the Assistant commissioner of Income Tax Company Circle V(3) for the Assessment Year 2003-2004 against the order of the Commissioner of Income Tax,Chennai III,Chennai in c.NO.3033/7/III/2006-2007 dated 22.01.2008.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
and Mrs.R.Hemalatha
Standing Counsel

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar Padmanabhan

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 11.02.2013 passed by the Income Tax

Appellate Tribunal, Chennai "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.1746/Mds/2012 for the assessment year 2003-04. The above appeal has been admitted on 07.01.2014 on the following Substantial Questions of Law:

> "1.Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the disallowance made u/s.40A (3) shall form part of the business income for the purpose of calculating deduction under Section 80HHC and 80IA of the Income Tax Act?
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> 2.Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the deduction under Section 80IA should not be exceeded while working out eligible profits for deduction under Section 80HHC of the Income Tax Act?"

2. We have heard Mr.T.Ravikumar, learned Senior Standing Counsel and Mrs.R.Hemalatha, learned Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, 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-5 on 22.04.2021.

5.Since the respondent/assessee had been issued with Form-5, 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)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income-tax,
Chennai.

3.The Commissioner of Income Tax (Appeals) VI,chennai

4.The Assistant commissioner of Income Tax,Company Circle V (3),Chennai 34.

5.The Income Tax Officer (HCC),
o/o CIT,Chennai III,Chennai.

+1cc to Mr.Subbaraya Aiyar, Advocate SR.No. 18136
+1cc to Mr.T.Ravikumar , Advocate SR.No. 26522

Tax Case Appeal No.864 of 2013

SS(CO)
A.SK(06.07.2021)