IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

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

Tax Case Appeal No.116 of 2016
and
C.M.P.Nos.1935 of 2016 & 7383 of 2019

M/s.Sri Vigneshwara Foundry
A-1095, Near Lakshmi Mills Co.,
Avinashi Road, P.N.Palayam,
Coimbatore – 641 037. ... Appellant

Vs.

The Assistant Commissioner of Income Tax,
Circle-111,
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 "C" Bench, dated 05.03.2015 passed in I.T.A.No.2010/Mds/2014, Assessment Year 2010-11, and this appeal preferred against the Commissioner of Income Tax (Appeals)-I, Coimbatore order dated 01/07/2014 made in Appeal No.28/13-14 for the Assessment Year 2010-2011 and preferred against the Assistant Commissioner of Income Tax Circle-III, Coimbatore order dated 28/02/2013 made in P.A.No.AALFS5096H for the Assessment Year 2010-2011.

For Appellant : Mr.N.S.Nandakumar

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usha Rani
Standing Counsel

J U D G M E N T

(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 05.03.2015 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.2010/Mds/2014 for the assessment year 2010-11. The above appeal was admitted on 22.02.2016 on the following Substantial Questions of Law in the above appeal:

> "1.Whether the Assessing Officer wholly disallowed payments, when evidence has been given by many persons receiving the same, admitting to such receipt merely on the fact that some of the workmen denied receipt of such payment, is perverse?
>
> 2.Whether a finding that a document relied upon by the assessee as an evidence of an agreement is invalid, is sufficient for the Assessing Officer to conclude that payments have not been made especially when, the factum of payment if seen independently, there are other evidence to prove the same, is perverse? And
>
> 3.Whether the Tribunal erred in uploading the orders of the Commissioner of Income Tax (Appeals) and the Assessing Officer based upon evidence of witnesses, who were not cross examined?"

2. We have heard Mr.N.S.Nandakumar, learned counsel for the appellant/assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel for the respondent/Revenue.

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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

4. We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form-3 on 28.12.2020 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal,
   Madras "C" Bench, Chennai.

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

3.The Assistant Commissioner of Income Tax,
   Circle-111,
   Coimbatore.

+1cc to Mr.N.S.Nandakumar, Advocate Sr.25542

Tax Case Appeal No.116 of 2016

kj[co]
srg 29/06/2021