IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM

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

Tax Case Appeal No.129 of 2016

The Commissioner of Income Tax,
Chennai. ...Appellant

Vs.

M/s.Neyveli Lignite Corporation Ltd.,
Neyveli - 607 801. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "A" Bench, dated 26.06.2015 passed in I.T.A.No.374/Mds/2004.

Appeal against the order of the Commissioner of Income Tax (Appeals)-V, 121, M.G.Road, Chennai 34, made in ITA No.67/2003-04 dated 28/11/2003, Assessment year 2001-02.

Appeal against the order of the Assistant Commissioner of Income Tax, Company Circle IV(4), Chennai 34 made in PAN AAACN1121C/NE-65 dated 28/03/2003, Assessment year 2001-02

Appeal against the order of the Assistant Commissioner of Income Tax, Company Circle IV(4), Chennai 34 made in PAN AAACN1121C/NE-65 dated 19/03/2002, Assessment year 2001-02

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mrs.G.Janane
for M/s.Lakshmi Kumaran

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 26.06.2015 passed by the Income Tax Appellate Tribunal, Chennai "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.374/Mds/2004 for the assessment year 2001-02. The above appeal has been admitted on 08.03.2016 on the following Substantial Questions of Law:

> "1.Whether, on the facts and circumstances of the case, the Tribunal was justified in holding that the revamping the urea plant is allowable expenditure as current repairs, even though the said expenditure was incurred after the life span of the plant and machinery, which does not amount to preservation of an already existing machinery?
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> 2.Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the expenditure incurred in revamping the urea plant is allowable as revenue expenditure, especially when the assessee had capitalized the same in its books of account?
>
> 3.Whether, on the facts and in the circumstances of the case, the Tribunal was justified in relying on the amendment to Section 80IA made by Finance Act, 1999, while allowing 100% deduction, even though the assessee had commenced its operation in the year 1994-95, when the position of law was different? and
>
> 4.Is not the finding of the Tribunal bad by applying the amended provisions of law by extending the benefit retrospectively, which goes against the principle of strict interpretation of machinery provisions?"

2. We have heard Mr.T.Ravikumar, learned Senior Standing Counsel for the appellant/Revenue and Mrs.G.Janane for M/s.Lakshmi Kumaran, 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-3 on 09.03.2021.

5.Since the respondent/assessee had been issued with Form-3, 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 III)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Chennai.

3.The Commissioner of Income Tax(Appeals) V,
121, M.G.Road, Chennai 34

4.The Assistant Commissioner of Income Tax,
Company Circle IV(4), 121, M.G.Road,
Chennai 34.

+1 cc to Mr.T.Ravikumar,Advocate Sr.No.23483
+3 cc to Mr.Lakshmikumaran, Advocate, Sr.No.23764

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SR II(CO)
KKV/21/06/2021