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 Nos.130 and 131 of 2016

Commissioner of Income Tax,
Chennai. ...Appellant in all appeals

Vs.

M/s.Neyveli Lignite Corporation Ltd.,
Neyveli – 607 801. ...Respondent in all appeals

Tax Case Appeals in Nos.130 and 131 of 2016 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.Nos.529/Mds/2006 and 222/Mds/2009 respectively.

Appeal against the order of the Commissioner of Income Tax (Appeals)-V, 121, M.G.Road, Chennai 34 made in ITA No.154/2005-06 date 21.11.2005, Assessment year 2002-03

Appeal against the order of the Additional Commissioner of Income Tax, Company Range IV, Chennai 34 made in PAN AAACN1121C/NE-65 dated 29/03/2005, Assessment year 2002-03

Appeal against the order of the Commissioner of Income Tax (Appeals)-V, 121, M.G.Road, Chennai-34 made in ITA No.52/2002-03 dated 31/03/2003, Assessment year 2000-01

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel
in all appeals

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

COMMON JUDGMENT
(Delivered by M.DURAISWAMY, J.)

The above appeals filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are 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.Nos.529/Mds/2006 and 222/Mds/2009 for the assessment years 2002-03 and 2000-01 respectively.

2.The above appeals have been admitted on 08.03.2016 on the following Substantial Questions of Law:

Common questions of law in T.C.A.Nos.130 and 131 of 2016 :

1.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?

2.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?”

T.C.A.No.131 of 2016 :

“3.Whether, on the facts and circumstances of the case, the Tribunal was justified in holding that the rejuvenation of the BWEs and life extension programme of thermal power station are allowable expenses 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?

4.Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the expenditure incurred in rejuvenation of BWEs and LEPs are allowable as revenue expenditure, especially when the assessee had capitalized the same in the books of account?”

3. 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.

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

5.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 08.03.2021.

6.Since the respondent/assessee had been issued with Form-3, nothing survives for adjudication in the above appeals. Recording the submission made by the learned counsel for the respondent/assessee, the above Tax Case Appeals stand disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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,Nungambakkam, Chennai 34

4.The Additional Commissioner of Income Tax,
Company Range IV, Chennai 34.

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

T.C.A.Nos.130 and 131 of 2016

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