IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

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

Tax Case Appeal No.161 of 2016

Commissioner of Income Tax
Central I,
108, Nungambakkam High Road,
Chennai - 600 034. ... Appellant/Appellant

Vs.

M/s.Power Soaps P. Ltd.,
R.S.No.94/1, Embalam Main Road,
Sembiambalayam Village,
Korkadu PO, Pondicherry - 605 110. ... Respondent/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 16.09.2015 passed in I.T.A.No.306/Mds/2015.

Against the order of the commissioner of Income Tax Appeals-VI, Chennai, dated 17/07/2014 and made in ITA No.767/13-14/A-VI against the Assessment order of the Joint Commissioner of Income Tax, Pondicherry Range, Pondicherry dated 25/03/2013 and made in PA.No.G.I.No.AABCN2036R for the Assessment Year 2010-11.

For Appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usharani
Standing Counsel

For Respondent : Ms.Sri Niranjani Srinivasan
for Mr.G.Baskar

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 16.09.2015 passed by the Income Tax

Appellate Tribunal, Chennai "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.306/Mds/2015 for the assessment year 2010-11. The Revenue has raised the following substantial questions of law in the appeal :

> "1.Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that the amount paid to sister concern under the head trade discount through book entry does not constitute as an expenditure for the purpose of Section 40A(2)(a) of the Income Tax Act ?
>
> 2.Whether the return of income filed by the assessee under Section 139(1) of the Income Tax Act claiming depreciation can be rated as exercising of option before the due date as prescribed in the Second Proviso to Rule 5(1A) of the Income Tax Rules?"

The above appeal has been admitted on 23.02.2016 on the above stated first question of law.

2.We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usharani, learned Standing Counsel, for the appellant/Revenue and Ms.Sri Niranjani Srinivasan for Mr.G.Baskar 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 16.12.2020.

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

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax
Central I,
108, Nungambakkam High Road,
Chennai - 600 034.

3. The Joint Commissioner of Income Tax Pondicherry Range, Pondicherry.

4.The Commissioner of Income Tax Appeal VI, Chennai.

+1 cc to M/s.G.Baskara ,Advocate Sr.No. 12970
+1 cc to M/s.T.R.Senthil kumar, Advocate Sr.No. 13494

Tax Case Appeal No.161 of 2016

GJ(CO)
RMP(16/04/2021)