IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal Nos. 292 of 2016, 1196 & 1197 of 2015

Commissioner of Income Tax
No.63, Race Course Road
Coimbatore.
... Appellant in all Tax Case Appeals

Vs.

M/s. CRI Pumps Pvt. Ltd.
7/46-1, Keerantham Road
Saravanampatti
Coimbatore-641 035.
PAN : AAA CC 9497 N ... Respondent in T.C.A.No.292 of 2016

M/s.CRI Pumps Pvt. Ltd.,
122-B, Athipalayam Road,
Cinnavedampatti,
Coimbatore-641 006.
PAN-AAACC9497 N ...Respondent in T.C.A.No.1196/2015 and T.C.A.No.1197 of 2015

Prayer in TCA Nos.1196 & 1197 of 2015: These Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 05.03.2015 passed in I.T.A.Nos.2711 & 2712 /Mds/2014 for the Assessment Years 2008-09 & 2009-10, and against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore dated 19/08/2014 made in Appeal Nos.311/13-14 and 312/13-14 and against the order of the Assistant Commissioner of Income Tax Circle IV (2), Coimbatore-641 018, dated 09.07.2013, made in PAN/GIR No.AAACC9497N, and Assessment Year 2008-09 and 2009-10 and the against the order of the Assistant Commissioner of Income Tax, Company Circle IV(2), Income Tax Department, Coimbatore dated 27.12.2010, Assessment Year 2008-09 and the Joint Commissioner of Income Tax Range IV, Income Tax Department, Coimbatore dated 31.12.2012 Assessment Year 2009-10 respectively.

Prayer in TCA No.292 of 2016: Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "A" Bench Chennai, dated 12.08.2015 passed in I.T.A.No.1399/Mds/2015 for the Assessment Year 2010-11, and against the order of the Commissioner of Income Tax (Appeals)-1, Coimbatore dated 09/03/2015 made in Appeal No.267/14-15 and against the order of the Assistant Commissioner of Income Tax, Income Tax Department, Company Circle IV (2), Coimbatore, and against the order of the Joint Commissioner of Income Tax Range IV-Coimbatore, Income Tax Department, dated 18.03.2014 made in PAN No.AAA CC 9497N, Assessment Year 2010-11.

For Appellant : Mr. T.R.Senthil Kumar
in all Tax cases

For Respondent : Mr. A.S.Sriraman
in all Tax cases

COMMON JUDGMENT

(Judgment was delivered by R. MAHADEVAN, J.)

These Tax Case Appeals have been filed by the appellant / Revenue challenging the orders dated 05.03.2015 and 12.08.2015 passed by the respective 'D' and 'A' Benches of the Income Tax Appellate Tribunal, Chennai ('the Tribunal', for brevity) relating to Assessment Years 2008-09, 2009-10 and 2010-11.

2.On 22.12.2015, the appeals in TCA Nos.1196 & 1197 of 2015 were admitted on the following substantial questions of law :

> "1.Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in cancelling penalty levied under Section 271(1)(c) of the Income Tax Act, when the assessee furnished inaccurate particulars and claimed Additional Depreciation on plant and machinery acquired and installed, which were relating to the earlier assessment years?
>
> 2.Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in cancelling penalty levied under section 271(1)(c), when the Appellate Tribunal in its quantum order, confirmed the deletion of additional depreciation claimed by the assessee ?

3.The Tax Case Appeal No.292 of 2016 was admitted on 18.04.2016 on the following substantial questions of law :

> "1. Whether on the facts and circumstances of the case, the Appellate Tribunal was right in cancelling penalty levied under Section 271(1)(c) of the Income Tax Act, when the assessee furnished inaccurate particulars and claimed additional depreciation on plant and machinery acquired and installed, which were relating to the earlier assessment years?
>
> 2. Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in cancelling penalty levied under section 271 (1)(c), when the Appellate Tribunal, in its quantum order, confirmed the deletion of additional depreciation claimed by the assessee ? and
>
> 3. Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in cancelling penalty levied under Section 271 (1) (c) of the Income Tax Act relying on the judgment of the Hon'ble Supreme Court of India in the case of Reliance Petroproducts Pvt. Ltd.[(2010) 322 ITR 158]?"

4.When the matters were taken up for consideration, the learned counsel appearing for the respondent / assessee submitted that during the pendency of these tax case appeals, the assessee has filed the requisite Forms 1 and 2 under Section 4 (1) of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 29.03.2021, 15.04.2021 & 15.04.2021 in respective cases, by the Income Tax Department. The learned counsel has also filed a memo to that effect.

5.The aforesaid submission made by the learned counsel for the respondent / assessee has also been fairly conceded by the learned standing counsel appearing for the appellant / Revenue.

6.This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matters connected therewith or incidental thereto, which came into force with effect from

17.03.2020; and the declarations submitted by them were also accepted and Form 3 was also issued to the assessee by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial questions of law arisen in these tax case appeals.

7.Therefore, recording the submissions so made by the learned counsel on either side, these appeals stand disposed of, directing the department to process the applications at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Maya

To

1.The Income Tax Appellate Tribunal
Chennai “A” Bench
Chennai.

2.The Income Tax Appellate Tribunal
Chennai “D” Bench
Chennai.

3.The Commissioner of Income Tax
No.63, Race Course Road
Coimbatore.

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

5.The Assistant Commissioner of Income Tax
Circle IV (2),
Coimbatore.

6.The Joint Commissioner of Income Tax, Range IV,
Income Tax Department,
Coimbatore.

+1cc to Mr.S.Sridhar, Advocate Sr.58747
+1cc to Mr.K.G.Usha Rani, Advocate Sr.58380

Tax Case Appeal Nos. 292 of 2016, 1196 & 1197 of 2015

br[co]
srg 16/12/2021