IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

CORAM

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

Tax Case Appeal No.416 of 2016

M/s.Neyveli Lignite Corporation Ltd.,
(F&AB) Income Tax Section,
Corporate Office, Neyveli - 607 801. ... Appellant

Vs.

The Assistant Commissioner of Income Tax,
Company Circle IV(4),
Chennai. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 26.06.2015 passed in I.T.A.No.177/Mds/2009, Assessment Year 2001-02.

Appeal against the order of the Commissioner of Income Tax (Appeals) Large Tax Payer Unit, IInd Floor, 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar Western Extension, Chennai-101 made in ITA No.15/07-08/LTU (A) dated 29/08/2008 year of the Assessments 2001-02.

Appeal against the order of the Commissioner of Income Tax, Chennai-III, 121, M.G.Road, Nungambakkam, Chennai -34 made in C.No.3033(6)/III/2003-2004 dated 25/11/2003, year of the Assessments 2001-02.

Appeal against the order of the Assistant Commissioner of Income Tax, company Circle IV (4), Chennai-34 made in P.A.No.AAACN1121 C/NE-65, order dated 28/03/2003, year of the Assessments 2001-02.

For Appellant : Ms.G.Janane
for M/s.Lakshmi Kumaran

For Respondent : Mr.T.Ravikumar
Senior 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 26.06.2015 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.177/Mds/2009 for the assessment year 2001-02. The above appeal has been admitted on 02.08.2016 on the following Substantial Questions of Law:

> "1.Whether on the facts and in circumstances of the case, the Hon'ble ITAT was right in holding that reopening of assessment under Section 147 of the Income Tax Act, 1961, is valid?
>
> 2.Whether on the facts and in circumstances of the case, the Hon'ble ITAT was right in holding that loose tools which does not provide enduring benefit should be classified as capital expenditure and not as revenue expenditure?”

2. We have heard Ms.G.Janane for M/s.Lakshmi Kumaran, learned counsel for the appellant/assessee and Mr.T.Ravikumar, learned Senior 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 17th March 2020 and published in the Gazette of India on 17th 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 09.03.2021 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.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Income Tax,
Company Circle IV(4),
Chennai.

3.The Commissioner of Income Tax (Appeals)
Large Tax Payer Unit,
2nd floor, 1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar western Extension,
Chennai-101.

4.The Commissioner of Income Tax,
Chennai-III, 121, M.G. Road,
Nungambakka, Chennai-34.

5.The Assistant Commissioner of Income Tax,
Company Circle IV (4),
Chennai-34.

+1cc to M/s.T.Ravikumar, Advocate Sr.24201
+1cc to Mr.Lakshmi Kumaran Sr.24423

Tax Case Appeal No.416 of 2016

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srg 05/07/2021