IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM

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

Tax Case Appeal Nos.628 and 629 of 2016

Shri. K.Subramanian
(Prop.Kavitha Dyeings), No.1/5-261,
Athiyur Road, Kadayampatti Post,
Bhavani - 638 302. ...Appellant in both appeals

Vs.

Assistant Commissioner of Income Tax,
Circle-II,
Erode. ...Respondent in both appeals

Tax Case Appeals in T.C.A.Nos.628 and 629 of 2016 filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "D" Bench, dated 26.02.2016 passed in I.T.A.Nos.2514/Mds/2014 and 2515/Mds/2014 respectively.

TCA No. 628/2016 against the appellate order passed by the Commissioner of Income Tax(A)-1, Coimbatore, dated 30/07/2014 made in Appeal No 51/13-14, and against the Assessment order paseed by the Assistant Commissioner of Income-Tax Circle-II (I/c), Erode, dated 18/02/2013, made in PAN/GIR No ALAPS3104L.

TCA No. 629/2016 against the appellate order passed by the Commissioner of Income Tax(A)-I, Coimbatore, dated 30/07/2014 made in Appeal No. 52/13-14, and against the Assessment order passed by the Assistant Commissioner of Income Tax Circle-II, Erode, dated 18/02/2013 made in PAN/GIR ALAPS3104L.

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For Appellant : Ms.K.C.Aarthi
in both appeals

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
in both appeals

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C O M M O N   J U D G M E N T

(Delivered by M.DURAISWAMY, J.)

The above appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 26.02.2016 passed by the Income Tax Appellate Tribunal, Chennai "D" Bench, ('the Tribunal' for brevity) in I.T.A.Nos.2514/Mds/2014 and 2515/Mds/2014 for the assessment years 2007-08 and 2008-09 respectively. The above appeals were admitted on 31.08.2016 on the following substantial question of law :

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in treating the adjustment of the retention amount withheld by Assessee out of the cost of the wind energy generator on failure on the performance of the wind energy generator with minimum guaranteed generation should be treated as revenue receipt"

2. We have heard Ms.K.C.Aarthi, learned counsel for the appellant/ assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Question 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 15.04.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the above appeals.

5. In view of the submission made by the learned counsel for the appellant/assessee, the above Tax Case Appeals stand dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

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

2.The Assistant Commissioner of Income Tax,
Circle-II,
Erode.

3.The Commissioner of Income Tax(A)-1,
Coimbatore.

+1cc to Mrs.K.C.Aarthi, Advocate, S.R.No.23812

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.23830

Tax Case Appeal Nos.628 and 629 of 2016

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