IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM

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

Tax Case Appeal No.716 of 2016

M/s.Addison & Co Limited,
803, Anna Salai, Chennai – 600 002.
...Appellant/Respondent

Vs.

The Deputy Commissioner of Income Tax,
Corporate Circle – 1(1),
Chennai. ...Respondent/Appellant

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 04.03.2016 passed in I.T.A.No.2198/ Mds/2015 against the order passed by the Commissioner of Income Tax(Appeals)-1, Chennai-34 made in ITA NO.117/13-14/A-1 (New No.ITA.181/CIT(A)-1/2013-14) dated 09.09.2015 and against the order passed by the Deputy Commissioner of Income Tax, Company circle-1(1), Chennai, made in GIR/PAN AX-1086 AAA5199H dated 28.03.2013.

For Appellant : Mr.R.Venkatanarayanan, for M/s.Subbaraya Aiyar

For Respondent : Mr.T.Ravi Kumar, 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 04.03.2016 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.2198/Mds/2015 for the assessment year 2010-11. The assessee has raised the following Substantial Questions of Law:

"1)Whether the Tribunal was right in law in holding that long term capital gains should be assessed in the assessment year 2010-11 based on Joint Development Agreement and not in assessment year r2013-14 in which the possession was handed over, after the Developer has obtained all the necessary approval for the construction of project?

2)Whether the Tribunal was right in law in holding that pursuant the Joint Development Agreement and Power of Attorney there was a transfer within the meaning of Sec.2 (47) of the Act and hence long term capital gains u/s 45(1) shall be assessed in the assessment year 2010-11?

3)Whether under the Joint Development Agreement dated 07.09.2009 capital gains can be said to have arisen in the subject assessment year?"

2. We have heard Mr.R.Venkatanarayanan, learned counsel for the appellant/assessee and Mr.T.Ravi 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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

4. We are informed by the learned counsel for the appellant/ assessee that the assessee has already been issued with Form - 3 on 06.01.2021 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 III)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Deputy Commissioner of Income Tax,
Corporate Circle - 1(1),
Chennai.

3. The Commissioner of Income Tax(Appeals)-1, Ch-34.

+1cc to Mr.T.Ravikumar, Advocate, S.R.No.5061

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.5070

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