IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

CORAM

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

Tax Case Appeal No.809 of 2016
and
C.M.P.No.17862 of 2016 and 17863 of 2016

M/s. Nagaraj & Company Pvt. Ltd.,
156, Developed Industrial Estate,
Perungudi,
Chennai - 600 096
PAN AAACBN2265K ... Appellant

vs.

The Assistant Commissioner of Income Tax,
Company Circle-IV(4)
Chennai - 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 02.08.2016 passed in ITA.No.450/Mds/2016 for the Assessment Year 2007.08.

Appeal against the O/O of the Commissioner of Income Tax (Appeals) – 8 Room No.222, Aayakar Bhavan, Main Building, II Floor, 121, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034 and made in ITA.No. 55/2013-14 order dated 16/11/2015 and against the office of the Assitant Commissioner of Income Tax Company Circle IV (4) 4th Floor, Main Building, 121, Mahatma Gandhi Road, Nungambakkam,, Chennai 600 034, and made in ITA/PAN.No. AAACN2265K and dated 29/01/2013 the assessment year 2007-2008.

For Appellant : Mr. R. Sivaraman

For Respondent : Mr. Karthik Ranganathan,
St Standing Counsel

J U D G M E N T

(Judgment was Delivered by M.DURAISWAMY, J)

This appeal filed by theassessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 02.08.2016 passed by the Income Tax Appellate Tribunal, "C" Bench, Chennai ('the Tribunal' for brevity) in I..TA.No.450/Mds/2016 for the Assessment Year 2007.08.

2. The appeal was admitted on 21.11.2016 on the following Substantial Question s of Law:

> "(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the capital profit on the sale of the fixed assets of the company cannot be taken directly to the reserves and surplus in the balance sheet and the same has to be routed through the profit and loss account to arrive at the correct book profits under section 115JB of the Act? And
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> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in reworking the profits under section 115JB as Rs.3,58,79,307/- on the ground that the profit on the sale of land credited to the capital reserves by the appellant are to be treated as normal profits for arriving at book profits under section 115JB? "

.3. We have heard Mr. R. Srinivasan, learned counsel for the appellant and Mr. Karthik Ranganathan, learned Standing Counsel for the respondent.

4. 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.

5. We are informed by the learned counsel for the appellant that the assessee has already been issued with Form –

3 on 29.12.2020 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

6. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Commissioner of Income Tax (Appeals) -8,
   Room No. 22, Aayakar Bhavan,
   Mahatma Gandhi Road,
   Nungambakkam, Chennai 34.

3. The Assistant Commissioner of Income Tax,
   Company Circle-IV(4)
   Chennai - 600 034.

Tax Case Appeal No.809 of 2016 and
C.M.P.No.17862 of 2016 & 17863 of 2016

RR(CO)
GN(18/03/2021)