

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2021

CORAM

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

Tax Case Appeal No.1153 of 2009

The Commissioner of Income Tax,
Coimbatore. ...Appellant

Vs.

M/s.Elgi Equipments Ltd.,
Elgi Industrial Complex,
Trichy Road, Singanallur,
Coimbatore. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 27.07.2005 passed in I.T.A.No.1917/Mds/2000

against the order of the Commissioner of Income Tax (Appeals) Coimbatore dated 21.04.1999 made in Appeal No.123-C/1999-2000 under Section 143(3) of the Income Tax Act for the assessment year 1996-1997.

against the order of the Joint Commissioner of Income Tax, Special Range II, Coimbatore dated 22.03.1999 under Section 143 (1) of the Income Tax Act.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji

J U D G M E N T
(Delivered by M. DURAISWAMY, J)

This appeal filed by the Department under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 27.07.2005 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1917/Mds/2000 for the Assessment Year 1996-97. The Department has raised the following Substantial Question of Law for consideration:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the expenditure incurred by the assessee during the accounting year, on the replacement of machineries are revenue expenditure?"

2. We have heard Mr.T.R.Senthil Kumar, learned senior standing counsel for the appellant/ Revenue and Mr.N.V.Balaji, learned Counsel for the respondent/assessee.

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 respondent/assessee that the assessee has already filed the requisite Forms 1 & 2 on 25.11.2020 under Section 4 of the Act.

5. In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping this appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal stands disposed of on the ground that the assessee has already filed the requisite Forms 1 & 2 and the Department shall process the application at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.

6. With this observation, the Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals)

Coimbatore

3.The Joint Commissioner of Income Tax

Special Range II, Coimbatore

4.The Sub Assistant Registrar

AE Section

High Court, Madras 104.

+1 CC to Mr.N.V.Balaji, Advocate sr 5991.

+1 CC to Mr.T.R.Senthil Kumar, Advocate sr 6011.

Tax Case Appeal No.1153 of 2009

GP(CO)

SP(22/02/2021)

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