IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM

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

Tax Case Appeal No.10 of 2017

Commissioner of Income Tax,
Corporate Circle-3,
Chennai. ... Appellant

Vs.

M/s.Wintek Technology (India) Private Limited,
Nokia Telecom SES, Industrial Park,
P-5, Phase III, Bangalore National Highway,
Sriperambudur,
Kancheepuram - 602 105. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "D" Bench, dated 22.04.2016 passed in I.T.A.No.1017/Mds/2015.

Appeal filed against the order of the Dispute Resolution Panel, Chennai Room No. 705, VII Floor, Aayakar Bhavan (Annes), 121, M.G.Road, Chennai 600 034, dated 27/11/2014 F.No.DRP/CHE/5/2014 PAN. AAACN6597 for the Assessment Year AY 2010-2011 and against the order of the Officer of the Income Tax Officer, Company Ward III (1) Room No. 415, New Block, 121, MG.Road, Chennai 600 034 dated 20/02/2014 GIR.No. PAN AAACW6597K Status Company for the Assessment Year 2010 - 2011 and against the Joint Commissioner of Income Tax Transfer Pricing Officer III, Chennai dated 07/01/2013, Reference dated 15/11/2011 F.No.W-304/TPO-III/A.Y 2010-2011 permanent Account No.AAACW6597K Reference from ACIT COM.Cir III (3), Chennai Assessment Year.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel
and Ms.V.Pushpa

Standing Counsel

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar

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

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 22.04.2016 passed by the Income Tax Appellate Tribunal, Chennai "D" Bench, ('the Tribunal' for brevity) in I.T.A.No.1017/Mds/2015 for the assessment year 2010-11. The Revenue has raised the following Substantial Questions of Law for consideration in the above appeal.

> "1.Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in quashing the final assessment order u/s. 143(3) read with Section 144 holding that the order is barred by limitation?
>
> 2.Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that the time limit will start from the date of receipt of Dispute Resolution Panel direction by the Assessing Officer even though the Dispute Resolution Panel has only directed the Transfer Pricing Officer to calculate the downward adjustment as per the Direction ?
>
> 3. Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that the Dispute Resolution Panel has no jurisdiction to direct the Transfer Pricing Officer to make further calculation or verification especially when the Act in Section 144C (7) empowers the Dispute Resolution Panel to make any further enquiry to be made by the Income Tax Authority ?”

2. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.V.Pushpa, learned Standing Counsel for the appellant/Revenue and Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar, learned counsel for the respondent/assessee.

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.Learned counsel for the respondent/assessee submitted that the assessee had availed the Vivad Se Vishwas Scheme and that the respondent/assessee had already been issued with Form-3 on 16.12.2020.

5.Since the respondent/assessee had been issued with Form-3, nothing survives for adjudication in the above appeal. Recording the submission made by the learned counsel for the respondent/assessee, the Tax Case Appeal stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax,
Corporate Circle-3,
Chennai.

3.Officer of the Dispute Resolution Panel,
Chennai.

4.The Joint Commissioner of Income Tax,
Transferring Pricing Officer III,
Chennai.

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No. 12326
+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 12328

Tax Case Appeal No.10 of 2017

AD(CO)
GN(22/03/2021)