IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

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

Tax Case Appeal No.194 of 2017

M/s.Ootacamund Club,
Club Road, P.O.Box No.19,
Ootacamund - 643 001. ... Appellant

Vs.

Income Tax Officer,
Ward I (1),
Ootacamund. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "A" Bench, dated 05.08.2015 passed in I.T.A.No.1529/Mds/2013.

Preferred against the order passed by the Commissioner of Income Tax (A)-I, Coimbatore dated 15/05/2013 made in ITA No.119/12-13 preferred against the order passed by the Income Tax Officer, Ward -I(1), Ooty dated 29/01/2013 under section 143 (3)of the Income Tax Act.

For Appellant : Mr.R.Sivaraman

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
assisted by Mrs.K.G.Usha Rani
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 05.08.2015 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.1529/Mds/2013 for the assessment year

2010-11. The above appeal has been admitted on 12.04.2017 on the following Substantial Questions of Law:

> "1.Whether having regard to the judgment of the Supreme Court in State of West Bengal Vs. Calcutta Club Limited reported in (2016) 96 VST 20, the principle of mutuality is attracted between a Club and its members and if so, whether the Tribunal was right in law in ignoring the principles of mutuality in the facts of the present case ?
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> 2.Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in holding that interest received from bank and other financial institutions of Rs.9,77,960/- on account of fixed deposit shall fall outside the purview of "principle of mutuality" and therefore, the said sum shall be taxable as income?"

2. We have heard Mr.R.Sivaraman, learned counsel for the appellant/assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel, for the respondent/Revenue.

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. We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form-3 on 22.01.2021 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

//True Copy//

Sub Assistant Registrar

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To

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

2.The Income Tax Officer,
Ward I (1),
Ootacamund.

3. The Commissioner of Income Tax (Appeals)-I,
Coimbatore.

+1 cc to M/s.T.R.Senthil Kumar, Advocate Sr.No. 14117



PM(CO)
RMP(29/03/2021)