IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

Tax Case Appeal Nos.361 & 362 of 2017

M/s.Gee Gee Holdings Chennai Pvt. Ltd.,
Old No.31, New No.6,
Dr.Radhakrishnan Salai 9th Street,
Mylapore, Chennai – 600 004.
... Appellant/Respondent in both TCAs

Vs.

The Income Tax Officer,
Company Ward – II (1),
Chennai. ... Respondent/Appellant in both TCAs

Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 26.05.2016 passed in I.T.A.Nos.775/Mds/13 and C.O.No.94/Mds/2013 in I.T.A.No.775/Mds/13 for the assessment year 2008-09.

Against the proceedings of the Commissioner of Income Tax (Appeals)-I, Coimbatore made in Appeal No. 569/10-11, date of order 07.01.2013.

Against the proceedings of Assistance Commissioner of Income Tax, Company Circle -II (2), Chennai 34 made in PAN/GIR No.AABCH1035D dated 16/12/2010 for the assessment Year 2008-2009.

For Appellant : Mr.M.Kaushik
(in both TCAs) for Mr.S.Sridhar

For Respondent : Mr.Karthick Ranganathan,
(in both TCAs) Senior Standing Counsel

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

The appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) are directed against the order dated 26.05.2016 passed by the Income Tax Appellate Tribunal "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.Nos.775/Mds/13 and C.O.No.94/Mds/2013 in I.T.A.No.775/Mds/13 for the assessment year 2008-09.

2.In T.C.A.No.361 of 2017 the appellant has raised the following Substantial Question of Law in the grounds of appeal:

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the compensation awarded by the arbitrator for breach of contract has to be treated as business income without appreciating that the compensation received by the appellant for giving up its right to develop the property resulted in the loss of source of income which is in capital field and not taxable?"

3.In T.C.A.No.362 of 2017 the appellant has raised the following Substantial Question of Law in the grounds of appeal:

> "1)Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that loss from trading of shares was speculative loss and not business loss?
>
> 2)Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that explanation to Section 73 of the Act will apply though the main source of income for the assessee during the year is only income from other sources as business loss is to be ignored?"

4.We have heard Mr.M.Kaushik, learned counsel for the appellant/ assessee and Mr.Karthick Ranganathan, learned Senior Standing Counsel for the respondent/Revenue.

5.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.

6.We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form – 3 on 02.03.2021 in both the Tax Case Appeals and the learned counsel for the appellant seeks permission of this Court to withdraw the appeals.

7.In view of the submission made by the learned counsel for the appellant, both the Tax Case Appeals stand dismissed as withdrawn. No costs.

Sd/-

Assistant Registrar (CS-IX)

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Sub Assistant Registrar

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To

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

2.The Income Tax Officer,
Company Ward – II (1), Chennai.

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

4.The Assistance Commissioner of Income Tax,
Company Circle – 11(2), Chennai-34.

5. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.S.Sridhar, Advocate, S.R.No. 22662

Tax Case Appeal Nos.361 & 362 of 2017

AK I(CO)
GN(04/05/2021)