IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

CORAM

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

Tax Case Appeal No.628 of 2017
and
C.M.P.No.18246 of 2017

M/s.Aban Hotels & Resorts P Ltd.,
Janpriya Crest,
No.113, Pantheon Road, Egmore,
Chennai - 600 008. ... Appellant

Vs.

The Income Tax Officer,
Company Ward -1(1),
615, New Block, Aayakar Bhavan,
Corporate Circle - 3(1),
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, Madras "C" Bench, dated 07.12.2016 passed in I.T.A.No.659/Mds/2011.

1) Appeal against the order of the Commissioner of Income Tax(Appeals) III, 121,M.G.Road, Nungambakkam, Chennai -34, made in ITA.No.269/09-10/(A)-III, order dated 05.01.2011, Assessment year 2005-06.

2) Appeal against the order of the Income Tax Officer, Company Ward(I), Chennai -34 made in PAN.No.AAACA9433E, Assessment year 2005-06, order dated 31.12.2007.

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

For Respondent : Mrs.R.Hemalatha
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 07.12.2016 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.659/Mds/2011 for the assessment year 2005-06. The above appeal has been admitted on 11.12.2017 on the following Substantial Questions of Law:

> *"1.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the compensation received by the appellant for cancellation of joint venture agreement is a business receipt chargeable to tax?*
>
> *2.Whether on the facts and in the circumstances of the case and in law, the compensation received on the cancellation of the joint venture agreement resulting in the dissolution of the profit making apparatus is a capital receipt not chargeable to tax?"*

2. We have heard Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar, learned counsel for the appellant/assessee and Mrs.R.Hemalatha, 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 29.12.2020 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS.VII)

/True Copy/

Sub Assistant Registrar

To

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

2.The Income Tax Officer,
Company Ward -1(1),
615, New Block, Aayakar Bhavan,
Corporate Circle - 3(1),
Chennai - 600 034.

3.The Commissioner of Income Tax(Appeals)-III,
NO.121, M.G.Road, Nungambakkam, Chennai -34.

4.The Income Tax Officer,
Company Ward(1), Chennai -34.

+1cc to M/s.Subbaraya Aiyar Padmanabhan,
Advocate SR.No.20971

+1cc to M/s.T.Ravikumar,Advocate Sr.No.20997

akm/28.04.21 /3p-7c/

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