IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.03.2021
CORAM

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

Tax Case Appeal No.652 of 2017

M/s.India Japan Lighting Limited,
Aalim Centre,
82, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004. ... Appellant

Vs.

The Deputy Commissioner of Income Tax,
Large Tax Payer Unit,
Chennai. ... Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 06.09.2016 passed in I.T.A.No.245/Mds/2013, preferred against the assessment order of the Deputy Commissioner of Income Tax, Large Tax Payers Unit, Chennai, dated 16.10.2012, for the Assessment year 2008 -09.

For Appellant	:	Mr.R.Venkatanarayananfor M/s.Subbraya Aiyar Padmanabhan
For Respondent	:	Mr.T.Ravi Kumar, Senior 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 06.09.2016 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for brevity) in I.T.A.No 245/Mds/2013 for the assessment year 2008-09.

2.The appellant has raised the following Substantial Questions of Law in the grounds of appeal:

> "1)Whether the Tribunal erred in not appreciating that appropriate adjustments were required as per Section 92C of the IT Act read with Rule 10B(3) of the

IT Rules in order to even out factors which materially affect the profitability of the assessee as compared to the comparable companies?

2)Whether the Tribunal erred in not providing appropriate adjustments for capacity underutilization, depreciation and extra ordinary costs including freight cost, rejection cost in order to ensure correct comparability analysis of assessee viz a viz comparables as per Section 92C read with Rule 10B(3) of the IT Rules?

3)Whether the Tribunal erred in not rejecting as per Section 92C read with Rule 10B(3) of the IT Rules certain comparables which were functionally different to assessee (or) had high degree of transactions with their associated enterprises?"

3.We have heard Mr.R.Venkatanarayanan, learned counsel for the appellant/assessee and Mr.T.Ravi Kumar, learned Senior Standing Counsel for the respondent/Revenue.

4.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.

5.We are informed by the learned counsel for the appellant/assessee that the assessee had already been issued with Form - 3 on 11.12.2020 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

6.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(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Deputy Commissioner of Income Tax,
   Large Tax Payer Unit,
   Chennai.

+1cc to M/s.Subbraya Aiyar Padmanabhan, Advocate, S.R.No.19737.
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.19759.

GMI(CO)
CSR 30.04.2021