IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case Appeal No.796 of 2017

M/s.Peirce Leslie Insurance Surveyors
& Loss Assessors Ltd.,
No.37, P.V.Cherian Cresent,
Egmore, Chennai - 600 008. ... Appellant

Vs.

The Income Tax Officer,
Corporate Ward 5(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, "B" SMC Bench, Chennai dated 18.09.2017 passed in I.T.A.No.1112/Mds/2017 preferred against the order of the Commissioner of Income Tax (Appeals)-3 Chennai-34, dated 31/01/2017 made in ITA No.159/2015-16/CIT(A)-3 preferred against the order of the Income Tax Officer Corporate Ward 5 (1), Chennai dated 25/01/2016 made in PAN/GIR No.AACCP9765E for the assessment year 2013-14.

For Appellant : Mr.M.P.Senthil Kumar

For Respondent : Mr.T.Ravi Kumar,
Senior Standing Counsel

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

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 18.09.2017 passed by the Income Tax Appellate Tribunal, Madras "B" SMC Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1112/Mds/ 2017 for the Assessment Year 2013-14.

2.The above appeal was admitted on the following Substantial Questions of Law for consideration:

> "1) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that expenditure incurred by the appellant towards payment of Corporate and Secretarial Charges to its Holding Company availing strategic and business development advices and the development of pay-roll and e-TDS software was not allowable as revenue expenditure u/s 37(1) of the Income Tax Act, 1961?
>
> 2) Is not the order of the Income Tax Appellate Tribunal perverse in holding that appellant had not discharged the onus to prove that the services rendered by the Holding Company helped its business merely on the ground that there was no agreement between the appellant and its Holding Company?"

3. We have heard Mr.M.P.Senthil Kumar, 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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

5.We are informed by the learned counsel for the appellant/ assessee that the assessee has already been issued with Form - 3 on 09.12.2020.

6. In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping this appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal is dismissed on the ground that the assessee has already been issued with Form - 3 and the Department shall process the applications at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest. As observed, the assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of

delay in restoration of the appeal and on such request made by the assessee by filing a Miscellaneous Petition for Restoration, the Registry shall place such petition before the Division Bench for orders.

7. With this observation, the Tax Case Appeal is dismissed with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

va

To

1. Income Tax Appellate Tribunal,
"B" SMC Bench, Chennai.

2.The Income Tax Officer,
Corporate Ward 5(1),
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)-3,
Chennai-34.

+1cc to Mr.T.Ravi Kumar, Advocate SR.No.24204

+1cc to Mr.G.Baskar, Advocate SR.No.24479

Tax Case Appeal No.796 of 2017

CP(CO)
GMY(04/06/2021)