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.797 of 2017
and C.M.P.No.20010 of 2017

M/s.KAKB Developers,
10 & 11, Dr.Radhakrishnan Salai,
Chennai City Centre,
4th Floor, Mylapore,
Chennai - 600 004. ... Appellant

Vs.

The Income Tax Officer,
Corporate Range - 5,
Now Corporate Ward 3(4),
Chennai - 600 034. ... 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 21.06.2017 passed in I.T.A.No.3254/Mds/2016, made against the order of the Commissioner of Income Tax Appeals-4 in ITA.No.89/15-16 Assessment year 2012-13/CIT(A)-4, dated 29.09.2016 for the Assessment year 2012-13 against the order of Income Tax Officer, Non-Corporate Ward 3(4)/2014-15, dated 27.03.2015 for the Assessment year 2012 -13.

For Appellant : Mr.R.Venkatanarayanan
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 21.06.2017 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for brevity) in I.T.A.No 3254/Mds/2016 for the assessment year 2012-13.

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

> "1)Whether the Tribunal was right in law in holding that the gain arising on the sale of land which was held a capital asset should be assessed as profit from business in terms of Sec.28 of the Act as against long term capital gains offered by the assessee?
>
> 2)Whether the transaction of developing the land into the plots by a "Developer" pursuant to a development agreement without the assessee itself plotting it out would amount to adventure in the nature of trade and income therefrom should be assessed as business income and not as long term capital gains?"

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 30.12.2020 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. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)



//True Copy//

Sub Assistant Registrar

va

To

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

2. The Income Tax Officer,Corporate Range - 5,
   Now Corporate Ward 3(4),
   Chennai - 600 034.

3. The Commissioner of Income Tax Appeals-4,
   Chennai-34.

+1cc to M/s.Subbaraya Aiyar, Advocate, SR.No.19747.
+1cc to Mr.T.Ravikumar, Advocate, SR.No.19760.

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Ak-II(CO)
CSR 30.04.2021