IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

CORAM

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

Tax Case Appeal No.96 of 2017

M/s.Tamil Nadu Industrial Development Corporation Limited,
19A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008. ... Appellant/Respondent

Vs.

The Assistant Commissioner of Income Tax,
Company Circle - III (2),
Chennai - 600 034,
presently the Income Tax Officer,
Non-Corporate Ward - 19(4),
Chennai - 600 034. ... Respondent/Appellant

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 05.01.2016 passed in I.T.A.No.351/Mds/2012, against the order of Commissioner of Income Tax(Appeals)-IV, Chennai dated 02/11/2011 and made in ITA.No.426/2011-12/A-IV against Assessment order, dated 30/10/2009 of Assistant Commissioner of Income Tax, Company Circle III(1) Chennai made in GIR No/PAn AAACT3409P/31035-T for the Assessment year 2007-08.

For Appellant : Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar

For Respondent : Mr.M.Swaminathan,
Senior Standing Counsel
assisted by Ms.V.Pushpa

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 05.01.2016 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No 351/Mds/2012 for the assessment year 2007-08.

2.The appellant/assessee has raised the following Substantial Questions of Law:

> "1)Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the loss arising from write off of the investments made in the companies promoted by the assessee would constitute capital loss and not business loss?
>
> 2)Whether on the facts and in the circumstances of the case, the Tribunal erred in not considering that the business of the assessee consisting of promoting companies and loss arising from investment in such promoted companies would constitute business loss and capital loss?
>
> 3)Whether on the facts and in the circumstances of the case, the Tribunal erred in not following the ratio of the decision of the Co-ordinate Bench in assesse's own case for the earlier years where realisation from investments in promoted companies where it was held to be business income?"

3.We have heard Mr.R.Venkatanarayanan, learned counsel for the appellant/assessee and Mr.M.Swaminathan, 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(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1)Income Tax Appellate Tribunal,
   Madras "A" Bench

2)The Assistant Commissioner of Income Tax,
   Company Circle - III (2),
   Chennai - 600 034,
   presently the Income Tax Officer,
   Non-Corporate Ward - 19(4),
   Chennai - 600 034.

3)The Commissioner of Income Tax
   (Appeals)VI,121,
   Mahatma Gandhi Road,
   Chennai-600 034.

+1cc to Mr.M.Swaminathan, Advocate SR.12325
+1cc to M/s.Subbaraya Aiyar Padmanabhan & Ramamani, SR.12327

Tax Case Appeal No.96 of 2017

GJ(CO)
CB(17/03/2021)