IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

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THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

TCA No.398 of 2013

The Commissioner of Income Tax,
Chennai : Appellant

versus

M/s.Indian Syntans Investments P Ltd.,
No.12, Third Main Road,
Kasturba Nagar,
Adyar,
Chennai 600 020 : Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai, dated 21.09.2021 in I.T.A.1112/Mds/2012.

For Appellant : Mr.T.Ravi Kumar

For Respondent : Mr.R.Sivaraman

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The assessee is an investment company engaged in the business of investing and also trading in shares and securities. The assessment for AY 2007-08 was completed under Section 143(3) of the Income Tax Act, 1961, (for short, 'the Act') determining the total income of the assessee at Rs.2,95,54,662/-. The Commissioner of Income Tax thereafter issued a notice dated 6 March 2012 under Section 263 of the Act. This was followed by an order dated 30 March 2012. Aggrieved by the order, assessee preferred an appeal before the Income Tax Appellate Tribunal. The Appellate Tribunal, by an order pronounced on 21 September 2012, allowed the appeal and quashed and set aside the order dated 30 March 2012 passed under Section 263 of the Act. In fact, the Appellate Tribunal has also made certain observations against the concerned Commissioner of Income Tax for issuing the notice under Section 263 of the Act. Against this order, the present appeal under Section 260-A of the Act has been preferred.

2. On 26 August 2013, the appeal was admitted on the following three substantial questions of law:

> *"1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the revision order passed under Section 263 is bad in law and therefore set aside the same?*
>
> *2. Whether the disallowance under Section 14A is to be taken into account while computing exempt income earned by the assessee during the previous year as the assessee had earned income including long term capital under Section 10(38) and 10(36) of the Act?*
>
> *3. Whether the trading profit is to be reduced at the final point as the capital loss on sale of investment was adjusted against the business profit made by the assessee?"*

3. In our view, we do not have to go into the details to answer the substantial questions of law. The reason being, even before the notice under Section 263 of the Act was issued, the audit had raised certain queries on the assessment order passed. These queries were replied to by the Assistant Commissioner of Income Tax, who was the Assessing Officer, vide a communication dated 25 August 2010; where the last paragraph reads as under:

> *"In view of the facts of the case as discussed above there is no legal infirmity in the assessment order. The observation of the Audit officer is purely*

based on certain presumption and surmises and is not supported by any provisions of the Act. In view of the above, the audit objection may please be dropped."

4. Subsequently, the Deputy Commissioner of Income Tax, Company Circle, vide a communication dated 5 May 2014, addressed to the office of the Director General of Audit (Central), after referring to the order passed under Section 263 of the Act and the order passed by the Income Tax Appellate Authority that is impugned in this appeal, has stated, *"The objections raised in this case vide the reference may kindly be dropped/ treated as settled"*. Subsequently, the office of the Principal Director of Audit (Central), Chennai, by a communication dated 7 October 2021, addressed to the Commissioner of Income Tax-I, Chennai, has observed that this case is not being pursued further and be closed.

5. In such circumstances, in our view, it is nothing but an academic exercise to proceed to answer the substantial questions of law framed, by spending our precious judicial time.

6. The appeal stands disposed of accordingly. There will be no order as to costs.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)

17.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To

1. The Commissioner of Income Tax,
   Chennai

2. The Income Tax Appellate Tribunal,
   Madras “D” Bench, Chennai

THE HON'BLE CHIEF JUSTICE
AND
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(tar)

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