IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08-07-2025**

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

TCA NO. 91 of 2016

The Commissioner of Income Tax,
Chennai.

Appellant(s)

Vs

M/s.Wheels India Ltd,
Padi, Chennai- 50

Respondent(s)

Prayer : Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 30.04.2014 passed in ITA No.479/Mds/2013 on the file of the Income Tax Appellate Tribunal, Madras 'B' Bench.

For Appellant(s):
Ms.V.Pushpa
Senior Standing Counsel
For Respondent(s):
Mr.R.Vijayaraghavan
For M/s.Subbaraya Aiyar
and Padmanabhan

JUDGMENT

(Judgment of the Court was delivered
by the Hon'ble Chief Justice)

On 03.02.2016, following four substantial questions of law were framed.

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal is right in deleting the disallowance made under Section 8D(2)(ii) of the Income Tax Act without appreciating the facts that the general pool of funds will apply in the present case, as the assessee has failed to discharge its onus in establishing that interest free funds were available and were invested in the assets to earn the tax free income?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in upholding the order of the Commissioner of Income Tax (Appeals) in allowing the assessee claim of loss on account of unrealized exchanged loss in respect of derivatives and on account of restatement of forward contract without appreciating the fact that the above transaction was speculative transaction as per the provisions of Section 43(5)(d) of the Income Tax Act, 1961?
>
> (iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in deleting the addition made by the Assessing Officer on account of disallowance made under Section 40(a)(i) in respect of commission payment made to non resident agent? And
>
> (iv) Is not the finding of the Tribunal bad, especially when as per Explanation 2 below Section 9(1)(iii) and Explanation below Section 9(2), which was introduced with effect from 1.6.1976 the commission charges are taxable in India?"

2. Shri.Vijayaraghavan, submitted that all the questions of law have been answered in favour of the assessee by various judgments.

3. Ms.Pushpa, as an officer of the Court and in fairness agreed with Shri Vijayaraghavan.

4 (i) Shri. Vijayaraghavan submitted that the first question is covered by the following judgments.

> (a) Principal Commissioner of Income Tax v. Sintex Industries Ltd.[1]
>
> (b) Commissioner of Income Tax v. Reliance Industries Ltd.[2]

(ii) Second question is covered by the following judgments.

> (a) Commissioner of Income Tax v. Woodward Governor India (P) Ltd.[3]
>
> (b) Principal Commissioner of Income Tax, Coimbatore v. Precot Meridian Ltd.[4]

1 403 ITR 418 Guj
2 (2019) 307 CTR (SC) 121
3 (2009) 312 ITR 254 SC
4 (2020) 120 Taxmann.com 429 (Mad)

(iii) Third and fourth questions are covered by the following judgments.

(a) Commissioner of Income Tax-LTI, Chennai v. M/s.Wheels India Ltd.[5]
(b) Evolv Clothing Company Pvt. Ltd. v. Assistant Commissioner of Income Tax[6]

5. Ms. Puspha agreed.

6. Therefore, all substantial questions of law are answered in favour of the assessee. The Tax Case Appeal stands dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.) (SUNDER MOHAN J.)
08-07-2025

Index : Yes/No
Neutral Citation : Yes/No

ars/dk

5 MANU/TN/5586/2021
6 (2018) 407 ITR 72 (Mad)

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

(ars/dk)

To

1. M/s.Wheels India Ltd,
Padi, Chennai- 50

2. The Income Tax Appellate Tribunal,
Madras 'B' Bench, Chennai.

TCA NO. 91 of 2016

08.07.2025