



Tax Case Appeal No. 614 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 05.09.2022

CORAM :

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MR. JUSTICE C.SARAVANAN

T.C.A.No.614 of 2009

M/s.Sundaram Finance Ltd.,
21, Patullas Road,
Chennai-600 002.

... Appellant

-vs-

The Commissioner of Income Tax,
Company Circle VI (4),
Chennai.

... Respondent

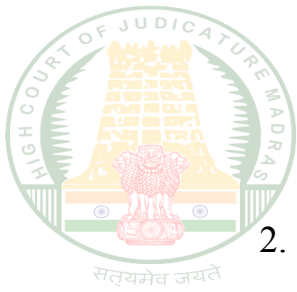
Prayer: Tax Case Appeal filed under Section 260-A of the Income Tax Act, 1961
against the common order of the Income Tax Appellate Tribunal, 'B' Bench,
Chennai dated 23rd January, 2009 passed in I.T.A.No.577/Mds/2007.

For Appellant : Mr. R.Venkatanarayanan
For Respondent : Mr.T.Ravi Kumar
Sr.Standing Counsel

J U D G M E N T

S.VAIDYANATHAN,J.,
and
C.SARAVANAN,J.,

This Tax Case Appeal has been filed by the Assessee, challenging the order dated 23.01.2009, passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, in I.T.A.No.577/Mds/2007 relating to the Assessment Year 2003-04, by which the Appeal preferred by the Department was partly allowed.



2. When the above Tax Case Appeal was taken up for admission, the

Appeal has been admitted on the following question of law:-

“1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the bad debts recovered by the appellant, which were written off and allowed as deduction in respect of Companies which got amalgamated with the appellant Company, should be taxed in the hands of the appellant'?”

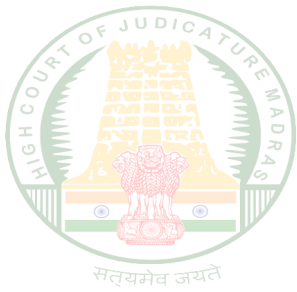
2. Whether on the facts and in the circumstances of the case, the Tribunal ought to have appreciated that after amalgamation the identity of the companies were lost and the recovery was made by the appellant who took over and succeeded to the business and hence as per provisions of sec.41 (4) the same is not taxable?

3. Whether on the facts and in the circumstances of the case, the Tribunal was right in treating the amount of Rs.70,70,958/- collected as contingent deposit towards disputed sales tax as income of the appellant without holding that the same is deductible in the year in which such refund is effected?”

3. The Income Tax Appellate Tribunal, after considering the rival contentions made before it, had passed the order dated 23.01.2009, the relevant portion of which, is extracted hereunder:

"7.We have considered the rival submissions carefully in the light of the material on record. We find that identical issue came up for consideration before this Tribunal in the Revenue's appeal in ITA No.955/Mds/05. After detailed discussion of the provisions, ultimately the matter was set aside to the file of the Assessing Officer vide para 3.7 of the order of this Tribunal which is as under:

"We find that learned Commissioner of Income Tax (Appeals) has not considered the present issue in light of the amendment in Section 41. He has also not given a speaking order on the issue. Hence, in the interest of justice, we remit this issue to the file of Commissioner of Income Tax (Appeals) to consider the issue and give a



finding accordingly."

WEB COPY Following the same we also set aside the order of three CIT (Appeals) and remit the matter back to the file of the Assessing officer with identical direction."

4. It is seen that a Co-Ordinate Bench of this Court, vide order dated 19.06.2019 in T.C.A.No.1938 of 2008 filed by the very same Appellant for the assessment year 2001-2002, had decided the issue (Substantial Question of Law No.1) regarding receipt of the amount towards Restrictive Covenant alone in favour of the Appellant therein, as the 2nd Question of Law, which is identical to the 1st Question of Law in this case, had not been pressed by the counsel appearing for the Appellant therein and on remand to the Authority for fresh consideration in respect of the previous Assessment Year, the Appellant had accepted the finding rendered thereon.

5. Insofar as the present Appeal is concerned, as stated supra, out of three questions of law framed, the first one was not pressed, when the similar case came up for consideration before the Co-Ordinate Bench of this Court and the balance two questions of law can be termed as question of facts, which have been elaborately discussed by the Appellate Tribunal and as such, there is no question of law at all before this Bench for a decision, warranting interference with the order of the Tribunal.



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6. In such view of the matter, we are of the considered opinion that no purpose would be served in keeping this Appeal pending for adjudication, where there is no question of law involved. Hence, without rendering any finding on the merits of the issue raised by the parties in the present Appeal, we are of the view that the present appeal is liable to be dismissed.

7. Accordingly, this Tax Case Appeal is dismissed. No costs.

[S.V.N., J.] [C.S.N., J.]

05.09.2022

Internet : Yes

Index : Yes / No

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To:

1. The Income Tax Appellate Tribunal,
Chennai 'C' Bench.
2. The Commissioner of Income Tax,
Company Circle VI (4),
Chennai.

T.C.A.No.614 of 2009