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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

TCA No. 908 of 2015

Case QR

CNR:{HCMA010525122015}

AND
TCA NO. 1 OF 2014

TCA.No.908 of 2015

The Commissioner of Income tax,
Chennai. ..Appellant(s)

Vs

M/s. Siva Ventures Limited
(now merged with Siva Industries and
Holdings Limited), Beliciaa Tower 1, 10th Floor, 1st
Main Road, MRC Nagar, R.A.Puram, Chennai - 600
028. ..Respondent(s)

TCA No. 1 of 2014

Case QR

CNR:{HCMA011110532014}

Commissioner of Income Tax
Chennai ..Appellant(s)

Vs

M/s Siva Ventures Ltd.,
327 Anna Salai, Teynampet,

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Chennai 600 018

..Respondent(s)

Prayer in TCA.No.908 of 2015: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai dated 21.03.2014 passed in I.T.A.No.120/Mds/2014 for A.Y. 2007-08.

Prayer in TCA.No.1 of 2014: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai dated 27.06.2013 passed in I.T.A.No.2161/MDS/2011 for A.Y.2007-08.

(In both TCAs)

For Appellant(s): Dr.S.Sathiya Narayanan,
Senior Standing Counsel

For Respondent(s): Mr.R.Sivaraman

Common Judgment

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

We have heard Dr.S.Sathiya Narayanan, learned Senior Standing Counsel for the appellant/Commissioner of Income Tax (CIT) and Mr.R.Sivaraman, learned counsel for the assessee/respondent.

2. At the outset, both learned counsel would submit that order passed by this Court on 22.09.2026 in TCA.Nos.307 and 308 of 2012 would have a bearing in these matters as well.

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3. The present appeals have been filed at the instance of the CIT challenging the orders of the Income Tax Appellate Tribunal for A.Y. 2007-08 dated 21.03.2014 (penalty under Section 271(1)(c)) and 27.06.2013 (on merits) and much water has flown under the bridge thereafter. For ease of reference, we extract the relevant portion of order dated 22.09.2026.

> *C.M.P.Nos. 4339 & 4334 of 2025 filed to amend the cause titles stand ordered. Registry to carry out necessary amendments.*
>
> *2. These appeals arise out of a common order of the Income Tax Appellate Tribunal, Chennai ('ITAT' / 'Tribunal') dated 31.07.2009 relating to assessment year (AY) 2006 – 07.*
>
> *3. The substantial questions of law that have been admitted for resolution on 06.11.2012 are as follows:-*
>
> > *"1.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the interest income and commission income from subscribing to mutual funds earned by the appellant is liable to be assessed under the head 'income from other sources' and not under the head 'Profits and Gains from Business or Profession'?*
> >
> > *2.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in denying carry-forward of short-term capital loss suffered by the appellant?*
> >
> > *3. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that interest expenditure claimed by the appellant as being towards cost of improvement was not allowable in view of the provisions of Section 14A?*
> >
> > *4. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in deciding whether interest expenditure was allowable when the issue was not before it for adjudication?"*
>
> *4. An adjudication on the substantial questions of law becomes unnecessary for the following reasons. The assessee before us was before*

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the National Company Law Appellate Tribunal. After much effort and persistence, we have been supplied by the Appellant counsel, with a copy of the judgment of the Supreme Court in Vallal RCK v M/s. Siva Industries and Holdings Limited and others [C.A.Nos. 1811-1812 of 2022 dated 3.6.2022] and subsequent orders passed by the Hon'ble Supreme Court.

5. The trajectory of the matter has been captured in order of the Supreme Court dated 3.6.2022 as follows:-

(i) An application had been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IB Code) for initiation of Corporate Insolvency Resolution Process (CIRP) in the case of the Appellant/Assessee, that had been admitted on 04.07.2019 paving the way for the CIRP.

(ii) The Resolution Plan presented by the Committee of Creditors (CoC) was returned for lack of sufficient votes.

(iii) An application was filed by the Resolution Professional (RP) under Section 33(1)(a) of IB code seeking liquidation that came to be allowed on 12.08.2021.

(iv) While so, the RP filed an application under Section 12A of the IB Code read with Regulation 30 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ['2016 Regulations'] seeking withdrawal of the CIRP.

(v) By order dated 12.08.2021, the application came to be rejected and that order confirmed by the NCLAT by its order dated 28.01.2022.

(vi) In further appeal, by judgment dated 03.06.2022, the Supreme Court allowed the Civil Appeals setting aside the judgement dated 28.01.2022 and, in fine, allowing the withdrawal application under Section 12A.

(vii) The rationale was that once the CoC had approved the Settlement Plan (SP), interference with the decision of the CoC was not warranted.

(viii) Thereafter, two of the Creditors i.e., the Income Tax Department and the Life Insurance Corporation of India had raised objections by way of Interim Applications before the Supreme Court that came to be considered by way of a detailed order passed on 24.02.2026.

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(ix) At paragraph 5 of that order, the Court records the objections of the Income-Tax Department that the Settlement Plan negotiated and presented under the aegis of Section 12A application was in the nature of private arrangement and in the absence of an order under Section 31 of the IB Code or Regulation under Section 33, the Department was not bound to facilitate the implementation of the private arrangement. In that context, this is what the Supreme Court says:-

> *"5. The principal objection of the Income Tax Department proceeds on the premise that the Settlement Plan is in the nature of a private arrangement and that, in the absence of an order under Section 31 of the IBC or liquidation under Section 33, the Department is not bound to facilitate its implementation. We are not persuaded that such objection can defeat the limited arrangement crafted by this Court. In this context, this Court has repeatedly emphasized that once an insolvency resolution framework approved by the creditors receives judicial imprimatur, its implementation cannot be defeated by subsequent claims of statutory authorities as also observed in Ghanashyam Mishra & Sons (P) Ltd v Edelweiss Asset Reconstruction Co., Ltd (2021) 9 SCC 657. This Court in Embassy Property Developments (P) Ltd v State of Karnatak, (2020) 13 SCC 308 has also recognised that actions of statutory authorities cannot be permitted to frustrate the implementation of processes under the Insolvency and Bankruptcy Code once they have received judicial sanction."*

(x) The apprehension of the Income-Tax Department that the terms of the Settlement would not address the claim of the Income-Tax Department have been assuaged at paragraph 6, wherein the Court says that the claim of the Department was neither extinguished, compromised or adjudicated upon.

(xi) The Court states that the purpose of Section 281 of the Income-Tax Act, Rule 16 of the Second Schedule and the administrative instructions relied upon by the Department before the Supreme Court was to secure the interests of the Revenue against the dissipation of the assets under that order and subsequent orders. Since attachment of the assets have been ordered, the interests of the Department have been adequately protected. Moreover, the sale of the assets are being conducted under the

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umbrella of the orders of the Supreme Court and the entire sale consideration deposited with the Registry of the Court in an interest-bearing fixed deposit in a nationalised bank, with auto-renewal facility, until further orders.

(xii) The matter is being listed before the Hon'ble Supreme Court periodically, on 24.02.2026, 03.09.2026, 21.09.2026 and now on 25.09.2026.

6. In light of the sequence of events as noticed above, the interests of the Department stand fully addressed and it is for the Department to establish their claim in the proceedings now pending before the Supreme Court. In such circumstances, we are not called upon to answer these substantial questions of law raised in the present appeals and hence return the same as unanswered.

7. These tax case (appeals) stand disposed in terms of this order. At joint request, liberty is given to the parties to revive these appeals, should it become necessary. No costs.

4. In line with the conclusion in the aforesaid appeals, we dispose these Tax Case (appeals) returning the questions as unanswered. At joint request, we permit the department to revive these appeals, should it become necessary. No costs.

(A.S.M.,J.) (K.R.S.,J.)

06-10-2026

mpl
Index: Yes/No
Speaking order
Neutral Citation: Yes

To

1. The Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai.

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

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DR.ANITA SUMANTH J.

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