

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1864/2007

COMMNR. OF INCOME TAX, MADURAI

Appellant(s)

VERSUS

M/S. ANNAMALAIAR MILLS

Respondent(s)

O R D E R

We have heard learned counsel for the parties and perused the impugned order dated 20.01.2004 passed by the Division Bench of High Court of Judicature at Madras in T.C. No.55 of 2001.

Briefly stated, the facts of this case are as follows:

M/s Annamalaiar Mills (P) Ltd., respondent herein is a holding company of M/s Annamalaiar Textiles (P) Ltd. Hundred per cent shares of M/s Annamalaiar Textiles (P) Ltd. were held by the respondent company. In the respondent company, there were two groups of shareholders; the majority shareholder called Group A was having 61.26 per cent shares whereas the minority shareholders called Group B were holding 38.74 per cent shares.

An agreement was entered into between the two groups on 24.06.1985 by which Group A came to hold all the shares in the holding company i.e. the respondent herein and Group B was given 100 per cent shares in the subsidiary company i.e. M/s Annamalaiar Textiles (P) Ltd. However, M/s Annamalaiar Textiles (P) Ltd also paid a sum of Rs.42.45

lakhs to the respondent company .

Proceedings under the Gift Tax Act were initiated in respect of payment of Rs.42.45 lakhs received by the respondent company. However, we are not concerned with the question of levy of gift tax under the present proceedings.

The assessing officer treated the amount of Rs.42.45 lakhs paid by the M/s Annamalaiar Textiles (P) Ltd. to the respondent company as capital gain on the footing that since both the companies are now 100 per cent owned by Group A or Group B, as the case may be, payment of Rs.42.45 lakhs was to off set valuation of the shares of M/s Annamalaiar Textiles (P) Ltd.

The Assessing Officer opined that the respondent herein-assessee was liable to pay tax for capital gains which was upheld in the appeal before the Commissioner of Income Tax (Appeals). However, the Income Tax Appellate Tribunal, Madras, in appeal preferred by the respondent herein accepted the pleas put forth by the respondent herein, set aside the assessment and restored the matter to the Income Tax Officer so that the assessee may approach the Central Board of Direct Taxes. The Income Tax Officer was further directed to finalise the assessment in accordance with the directions that may be given by the Central Board of Direct Taxes.

The matter was taken up before the High Court of Madras and the order of the Tribunal was upheld by the Madras High Court.

The sole question which arises for our consideration is as to whether the sum of Rs.42.45 lakhs paid by M/s Annamalaiar Textiles (P) Ltd. to the respondent company is liable to any capital gains or not.

It is not in dispute that M/s Annamalaiar Textiles (P) Ltd. did not pay any amount to the shareholders who ultimately got the shares transferred in their names. The respondent was holding 100 per cent shares of M/s Annamalaiar Textiles (P) Ltd., before it was transferred to Group B. No payment was made to the shareholders belonging to Group B and, therefore, the question of there being any capital gains at the hands of the respondent herein does not arise.

Needless to mention that the transaction of payment of Rs.42.45 lakhs had been subjected under the Gift Tax Act and the Department cannot claim both under the Gift Tax Act and also levy tax under the Income Tax Act.

In view of the above discussion, we do not find any merit in the Civil Appeal and the same is dismissed.

.....J.  
[R.K. AGRAWAL]

.....J.  
[MOHAN M. SHANTANAGOUDAR]

NEW DELHI;  
MARCH 28, 2017.

ITEM NO.113

COURT NO.10

SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.1864/2007

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M/S. ANNAMALAIAR MILLS

Respondent(s)

Date : 28/03/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)      Mr. P.S. Patwalia, ASG  
                                 Mr. Arijit Prasad, Adv.  
                                 Mr. Rupesh Kumar, Adv.  
                                 Mr. Rajat Singh, Adv.  
                                 Mrs. Anil Katiyar, Adv.

For Respondent(s)    Ms. Indu Malhotra, Sr. Adv.  
                                 Mrs. Shashi M. Kapila, Adv.  
                                 Mr. Prashant Singh, Adv.  
                                 Mr. Tanvir Nayar, Adv.  
                                 Mr. Pravesh Sharma, Adv.  
                                 Mr. Shivang Dubey, Adv.  
                                 Mr. Vikas Mehta, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The Civil Appeal is dismissed in terms of the signed order.

(ASHA SUNDRIYAL)  
COURT MASTER

(CHANDER BALA)  
COURT MASTER

(Signed order is placed on the file)

