IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.15239, 15240 & 15241 of 2011
MP.Nos.1, 1 & 1 of 2011

S.Balakrishnan ...Petitioner in W.P.No.15239 of 2011

***Sivakami Narayanan**
...Petitioner in W.P.No.15240 & 15241 of 2011

--Vs--

The Income Tax Officer,
Salary Ward-I(2),
Coimbatore ... Respondent in W.P.No.15239 of 2011

1.The Commissioner of Income Tax
63, Race Course Road
Coimbatore-18
2.The Commissioner of Income Tax,
Circle-II
Coimbatore
.... Respondents in W.P.No.15240 & 15241 of 2011

****

Prayer in W.P.No.15239 of 2011: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the respondent in P.A.No:AEKPB 2584 G dated 30.11.2006 and quash the same.
Prayer in W.P.No.15240 of 2011: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in P.A.No:ASAPS 8633 H dated 17.01.2008 quash the same and further direct the 2nd respondent to grant the exemptions contemplated under Section 10(10C) of the Income Tax Act for the income received under the ICICI Bank Early Retirement Option (ERO) scheme.

Prayer in W.P.No.15241 of 2011: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the 1st respondent in ASAPS 8633 H dated 12.12.2008 quash the same and further direct the respondents to grant the exemption contemplated under Section 10 (10C) of the Income Tax Act for the income received under the ICICI Bank Early Retirement Scheme.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

The order of assessment impugned in W.P.No.15240 of 2011 has been challenged by way of a revision under Section 264 of the Income Tax Act, 1964 (in short 'Act'), which has been dismissed by the Commissioner of Income Tax on 12.12.2008. Since the order of the Commissioner has been impugned in WP.No.15241 of 2011, nothing survives in WP.No.15240 of 2011 and the same is dismissed as infructuous.

2. W.P.Nos.15239 and 15241 of 2011 have been filed by employees of ICICI Bank Ltd. (Bank). During the financial year 2004-05, the petitioners have retired availing a Voluntary Retirement Scheme floated by the Bank. The subject matter of the assessments related to an exemption in terms of Section 10(10-C) of the Income Tax Act, 1961 (in short 'Act'), sought by the petitioners and denied by the Assessing Officers vide the impugned order.

3. This issue has been settled by a Division Bench of the Supreme Court in the case of Chandra Ranganathan and Others Vs. Commissioner of Income Tax [(2010) 326 ITR 49], in the context of an identical retirement scheme floated by the Reserve Bank of India.

4. Learned Revenue Counsel points out that the returns of income filed by the petitioners did not contain a claim in terms of Section 10 (10C) of the Act. However, the very fact that the order of assessment was challenged, either by way of writ petition or before the Commissioner of Income Tax in revision indicates that the petitioners did consider themselves entitled to such claim. This argument is thus rejected.

5. Thus and in the light of the judgment of the Supreme Court in Chandra Ranganathan (supra), these writ petitions are liable to be allowed and I do so. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(insp cell)

***corrected as per order of this Court dated 23.01.2020 and made in WMP.NO.670/2020 in WP.NO.15241/2011**

-s/d-
Assistant Registrar(insp cell)
dt 22/11/2020

//True Copy//

Sub Assistant Registrar

ska

To
1.The Income Tax Officer,
Salary Ward-I(2),
Coimbatore
2.The Commissioner of Income Tax
63, Race Course Road
Coimbatore-18
3.The Commissioner of Income Tax,
Circle-II, Coimbatore

to be substituted
For the order already despatched on 02.01.20

+2ccs to Mr.K.Soundararajan , Advocate SR.No. 56993
+3ccs to Mr.A.P.Srinivas , Advocate SR.No. 87151 to 87153
+1cc to Mr.K.Krishnamoorthy, Advocate SR.No. 4897

W.P.Nos.15239, 15240 & 15241 of 2011
MP.Nos.1, 1 & 1 of 2011

spd (CO)
A.SK(25/11/2019)
A.SK(12/12/2019)
A.SK(27/01/2020)