

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition Nos.23986 & 23987 of 2018
and
W.M.P.Nos.27938 & 27939 of 2018

Mr. Vishnu Srinivasan, S/o. Dr. Gopal Srinivasan,
224 Chaucer Ct., Willowbrook IL 60527 USA
Rep. by his Power of Attorney V.Brahadeeswaran
No.20 Pycrofts Garden Rd.,
Chennai 600 006

...Petitioner in
W.P.No.23986/2018

Hari Srinivasan, S/o. Dr.Gopal Srinivasan,
880 Altaire Walk Palo Alto CA 94303 USA
Rep. by his Power of Attorney V.Brahadeeswaran
No.20 Pycrofts Garden Road,
Chennai 600 006

...Petitioner in
W.P.No.23987/2018

.Vs.

1.The Assessing Officer
International Taxation Ward 2(2),
No.16 BSNL Building Tower,
Greems Road Chennai - 600 006

2.Mrs.Dhurga Vaishnavi Shivamoorti,
W/o.C.Shivamoorti, Alaghu-Aalayamman
Old No.6 New No.11 1st Cross Street,
Seethamma Colony, Teynampet
Chennai - 600 018

.. Respondents in both W.Ps.

Prayer in W.P.No.23986/2018:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the 1st respondent relating to certificate, dated 06.07.2018, having Ref.No.0318AP711D issued under Section 195(2) of the Income Tax Act for deduction of tax at Source to TAN CMBS18721D in the name of the 2nd respondent at 6% out of the sale consideration payable to the petitioner and quash the same as arbitrary

illegal and violative of Article 14 of the Constitution of India in so far as it fixed the capital gains tax at 6% of the sale consideration instead of 3.26% of the sale consideration and consequently, direct the first respondent to refund to the petitioner the sum of Rs.34,69,616.50 paid pursuant to the certificate, dated 06.07.2018 having Ref. No.0318AP711D which is in excess of the amount payable as capital gains tax by the petitioner in accordance with law on the sale transaction between the petitioner and the second respondent with interest at 12% per annum from the date of payment.

Prayer in W.P.No.23987/2018:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the 1st respondent relating to certificate, dated 06.07.2018, having Ref.No.0318AP713J issued under Section 195(2) of the Income Tax Act for deduction of tax at Source to TAN CMBS18721D in the name of the 2nd respondent at 6% out of the sale consideration payable to the petitioner and quash the same as arbitrary illegal and violative of Article 14 of the Constitution of India in so far as it fixed the capital gains tax at 6% of the sale consideration instead of 3.26% of the sale consideration and consequently, direct the first respondent to refund to the petitioner the sum of Rs.34,69,616.50 paid pursuant to the certificate, dated 06.07.2018 having Ref. No.0318AP713J which is in excess of the amount payable as capital gains tax by the petitioner in accordance with law on the sale transaction between the petitioner and the second respondent with interest at 12% per annum from the date of payment.

For Petitioner in
both W.Ps. : Mrs. Nalini Chidambaram,
Sr. Counsel, for Mrs. C.Uma

For R-1 in
both W.Ps. : Mrs. Hema Muralikrishnan,
Sr. Standing Counsel,

For R-2 in both W.Ps: Ms. Kaviya Silambanan

C O M M O N O R D E R

The learned counsel appearing for the petitioner, in both the writ petitions, requests that she may be permitted to withdraw the writ petitions, with liberty to raise all relevant contentions before the Assessing Officer. The learned counsel has also made endorsements in the Court bundles today to that effect.

2. Recording the above, these writ petitions are dismissed as withdrawn, with liberty to the petitioners to raise all

relevant contentions before the Assessing Officer. Consequently, the connected WMPs are closed. No order as to costs.

srk

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1 The Assessing Officer
International Taxation Ward 2(2),
No.16 BSNL Building Tower,
Greams Road Chennai - 600 006

+1cc to Mrs.Hema Muralikrishnan, Advocate, SR.NO.17433

+1cc to Mrs.C.Uma, Advocate, SR.NO.17893

Writ Petition Nos.23986 & 23987 of 2018
& W.M.P.Nos.27938 & 27939 of 2018

RV(CO)
Kak(30/03/2019)

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