BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2019

CORAM:
THE HONOURABLE DR. JUSTICE VINEET KOTHARI
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.(MD) No.1030 of 2015 and 1012 to 1015 of 2018
and
M.P.(MD) No.1 of 2015
and
C.M.P.(MD) Nos.7103 to 7106 of 2018

1.THE INCOME TAX OFFICER,
WARD NO.1(3),
ARUNACHALAM CHETTIAR STREET,
KARAIKUDI.

2.THE ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE II, C.R.BUILDINGS,
V.P.RATHINASAMY NADAR ROAD,
MADURAI.

... APPELLANTS/RESPONDENTS IN ALL WRIT APPEALS

-VS-

PR.SL.SATHAPPAN
... RESPONDENT /PETITIONER IN WA(MD).1030 OF 2015

K.VENKATACHALAM ... RESPONDENT/PETITIONER IN WA(MD). 1012/ 2018

AN.NARAYANAN ... RESPONDENT/PETITIONER IN WA(MD). 1013/ 2018

A. THENAPPAN ... RESPONDENT/PETITIONER IN WA(MD). 1014/ 2018

S. SUBRAMANIAN ... RESPONDENT/PETITIONER IN WA(MD). 1015/ 2018

PRAYER: Appeal is filed under Clause 15 of Letters Patent, to set aside the
order dated 27.03.2014 made in W.P.(MD) No.8984 of 2011,
order dated 09.04.2018 made in W.P.(MD) No.7204 of 2010,
order dated 09.04.2018 made in W.P.(MD) No.9000 of 2010,
order dated 09.04.2018 made in W.P.(MD) No.9001 of 2010,
order dated 09.04.2018 made in W.P.(MD) No.9253 of 2010, and to set aside the order on the following amongst other grounds, on the file of this Court.

Prayer in WP(MD). 8984/ 2011 :

Writ Petition is filed under Article 226 of the

Constitution of India, praying this Court To issue a Writ of Mandamus, directing the Respondents to grant exemption under Section 10(10C) of Income Tax Act as requested by the Petitioner (PAN No. is AVT PS 5547 E) in his request dated 15.12.2006 and receipt dated 27.01.2011 in respect of Assessment Year 2004-2005.

Prayer in WP(MD). 7204/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order of the 1st respondent dated 20.05.2010 in GIR/PA No. ABAPV 9861F and quash the same and consequently forbear the respondents, their men, agents, servants or any one claiming under them from in any manner making any demand or recovering any money forcibly or otherwise from the petitioner for the assessment year 2004-2005.

Prayer in WP(MD). 9000/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order of the 1st respondent in GIR PA No. 287N/ ABKPN 9062E dated 05.03.2010 and quash the same and consequently forbear the respondents, their men, agents, servants or any one claiming under them from in any manner making any demand or recovering any money forcibly or otherwise from the petitioner for the assessment year 2004-2005.

Prayer in WP(MD). 9001/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order of the 1st respondent in GIR No. 145T PA No. ABOPT 1942 M dated 12.05.2009 and quash the same and consequently forbear the respondents, their men, agents, servants or any one claiming under them from in any manner making any demand or recovering any money forcibly or otherwise from the petitioner for the assessment year 2004-2005.

Prayer in WP(MD). 9253/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order of the 1st respondent in GI PA No. AXSPS9681A dated 20.04.2010 and quash the same and consequently forbear the respondents, their men, agents, servants or any one claiming under them from in any manner making any demand or recovering any money forcibly or otherwise from the petitioner for the assessment year 2004-2005.

For Appellants : Mrs.S.Srimathy,
learned standing counsel in all Writ Appeals

For Respondent : No Appearance
in Writ Appeal(MD)No.1030 OF 2015

: Mr. VR. Shanmuganathan,
in Writ Appeal(MD)Nos.1012 to 1015 OF 2018

COMMON JUDGEMENT

[Judgment of the Court was delivered by DR.VINEET KOTHARI, J.]

The Revenue Department has filed these appeals aggrieved by the order passed by the learned Single Judge, by which, the learned Single Judge allowed the writ petitions filed by the respondents/assessee, who claimed exemption under Section 10(10C) of Income Tax Act, 1961, with respect to the amount received by the respondents/assessees on voluntary retirement, who was in service of Bank.

2.The said provision of Section 10(10C) of the Act allows such exemption in respect of the amount received or receivable by the employee of public sector companies or other companies or societies or State Government or Central Government, etc. subject to fulfilment of conditions as prescribed under Rule 2 B of the Income Tax Rules, 1962.

3.The learned counsel appearing for the appellants/Revenue fairly submits that on merits, the controversy has been concluded by several decisions against the Revenue Department viz., in the leading judgment rendered by Bombay High Court in the case of ***Commissioner of Income Tax Vs. Koodathil Kallyatan Ambujakshan*** reported in ***(2009) 309 ITR 113*** and also by the Madras High Court itself in the case of ***S.Parthasarathy V. The Assistant Commissioner of Income Tax in Tax Case (Appeal) Nos.1210, 1217, 1249 and 1250 of 2009*** decided by the Division Bench of this Court dated 23.12.2009, in which, it was held that such amount received on voluntary retirement by the assessee, the retiring employees would be exempted under Section 10(10C) of the Act.

4.The learned counsel for the Revenue however pointed out that in one of the S.L.P. filed before the Hon'ble Supreme Court by such assessee viz., ***M.Chelladurai Karaikudi Vs. Commissioner of Income Tax, Madurai in Civil Appeal No.51 of 2010***, while the appeal was dismissed by the Hon'ble Supreme Court, the questions of law were left open. On the core question, the learned counsel for the Appellants/Revenue however could not point out any such material on the basis of which the exemption to the respondents assessees under Section 10(10C) of the Act deserved it to be denied in the present case also.

5.As far as the question of grant of exemption, an amount received on the for voluntary retirement from the institution stipulated in the said provision is argued, it is no longer res-integra and has been concluded by a series of judgments by different High Courts including the Madras High Court, which has been approved by the Hon'ble Supreme Court as well and one such order is produced by the learned counsel for the appellants herself in the case of ***Chandra Renganathan and other Vs. CIT, Chennai in Civil Appeal Nos.6997-7002 of 2009*** decided by the Apex Court on 21.10.2009. The relevant portion of the order of the Hon'ble Supreme Court is quoted below for ready reference, which dealt with the same scheme announced by RBI.

> "During the course of hearing of these appeals, it was brought to our notice that by the subsequent letter dated 8th May, 2009, issued by the Central Board of Direct Taxes, it was indicated that the matter had been reviewed on the basis of the judgment of the Bompay High Court dated 4th July, 2008, in the case of Commissioner of Income Tax Vs. Koodathil Kallyatan (2008) 219 CTR (Bom) 80 (2008) 12 DTR 138 and it was held that amounts received by retiring employees of the RBI would be eligible for exemption under the aforesaid provisions of the Income Tax Act. On behalf of the Union of India and the Commissioner of Income Tax, the respondent herein, it was submitted that in view of the said Circular, the respondent herein, it was submitted that in view of the said Circular, the respondent would allow the benefit of deduction to the appellants under Section 10(10C) of the Income Tax Act, 1961, as far as the retired employees of the Reserve Bank of India are concerned.
>
> Having regard to the above, the appeals succeed and are allowed. The impugned order passed by the High Court is set aside and that of the Tribunal is restored. There will be no order as to costs."

6.In view of the aforesaid judgment, we do not find any merit in the present writ appeals filed by the Revenue. The same are liable to be dismissed and the same are accordingly, dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

Arul

TO:

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CIRCLE II, C.R.BUILDINGS,
V.P.RATHINASAMY NADAR ROAD,
MADURAI.

1CC TO MR. S.M.S. JOHNNY BASHA, ADVOCATE SR 57683

5CC'S TO M/S. S. SRIMATHY,STANDING COUNSEL DEPARTMENT FOR INCOME TAX. SR 57681, 57682, 58031, 58032, 58033

4CC TO MR. VR. SHANMUGANATHAN, ADVOCATE SR 57690, 57691, 57692, 57693

KK
24/04/2019
5P 13C

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