IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.192 of 2020

The Commissioner of Income Tax, Non Corporate Circle 10(3), Chennai ...Appellant/Respondent

Vs

Shri Praveen Kumar Surana ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.10.2019 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai made in I.T.A.No.605/Chny/2019 for the assessment year 2011-12, and against the order passed by the Commissioner of Income Tax (Appeals)-12, Chennai made in ITA 142/CIT (A)-12/2017-18 dated 28/01/2019 and against the order passed by the Income Tax Officer, Non Corporate Ward-10(3), Chennai, made in PA No.AAGPP9842D dated 18/12/2017 for Assessment Year 2011-2012.

For Appellant: Mr.M.Swaminathan, SSC
assisted by Ms.V.Pushpa, JSC

For Respondent: Mr.Ashok Pathy for M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 01.10.2019 made in I.T.A.No.605/Chny/2019 on the file of the Income Tax Appellate Tribunal, Chennai, 'C' Bench ('the Tribunal' for brevity) for the assessment year 2011-12.

2. The appeal was admitted on 24.7.2020 on the following substantial questions of law :

> "1. Whether the Income Tax Appellate Tribunal was right and justified in setting aside the order passed by the Assessing

Officer to re-examine the matter when the Assessing Officer has already duly examined the matter before passing the assessment order ? and

2. Whether the Income Tax Appellate Tribunal was right and justified in remitting the issue back to the file of the Assessing Officer and shifting the onus to the Revenue with a direction that the Assessing Officer shall bring on record the role of the assessee in promoting the company and the relationship of the assessee if any with the promoters, role of the assessee in inflating the price of shares, etc.?"

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Junior Standing Counsel appearing for the appellant/Revenue and Mr.Ashok Pathy, learned counsel appearing for the respondent/assessee.

4. The learned counsel on behalf of the assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 03.11.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Income Tax Appellate Tribunal,
'C' Bench, Chennai.

2.The Commissioner of Income Tax,
Non corporate Circle 10(3),
Chennai.

3.The Commissioner of Income Tax (Appeals)-12,
Chennai.

4.The Income Tax Officer,
Non Corporate Ward 10(3),
Chennai.

+1cc to Mr.M.Saminathan, Advocate Sr.42340

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srg 07/01/2021