IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.961 & 963 of 2019
& CMP.No.25168 of 2019

Shri Hari Poddar & others, L/H &
Husband of Smt.Prathiba Poddar ...Appellant

Vs

The Deputy Commissioner of
Income Tax, Circle-1, Erode. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 22.10.2018 passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai made in I.T.A.Nos. 1286 and 1285/Mds/2006 respectively for the assessment years 1998-99 and 1997-98 against the order dated 15.03.2006 and made in Appeal Nos. 166 and 165/2002-2003 on the file of the Commissioner of Income Tax (Appeals)I, Coimbatore respectively and against the order dated 28.03.2002 and made in P.A/GIR No. 9CPP0010 on the file of the Deputy Commissioner of Income Tax, Circle I, Erode respectively for the Assessment year 1997-1998 & 1998-1999.

For Appellant : Mr.Venkata Narayanan for
(in both cases) M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mr.T.R.Senthilkumar, SSC assisted by
(in both cases) Ms.K.G.Usharani, JSC

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

These appeals have been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the common order dated 22.10.2018 made in I.T.A.Nos.1286 and 1285/Mds/2006 on the file of the Income Tax Appellate Tribunal, Chennai, 'A' Bench ('the Tribunal' for brevity) respectively for the assessment years 1998-99 and 1997-98.

2. The assessee has filed these appeals by raising the following substantial questions of law:

> "i. Whether the Tribunal was right in law in holding that the assessment order

speaks of twin reasons for reopening of assessment, the Assessing Officer has validly issued notice under Section 148 of the Act and validly initiated reassessment proceedings? and

ii. Whether the Tribunal was right in law in holding that reassessment proceedings are valid, though the sole reason for which the Assessing Officer had assumed jurisdiction to reopen the assessment was found to be non existent?"

3. We have heard Mr.Venkatanarayanan, learned counsel appearing for the appellant/assessee and Mr.T.R.Senthilkumar, learned Senior Standing Counsel assisted by Ms.K.G.Usharani, learned Junior Standing Counsel appearing for the respondent/Revenue.

4. The learned counsel on behalf of the appellant/assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 20.11.2020 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 applications/declarations 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 these appeals in the event the ultimate decision to be taken on the declarations 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 applications to be filed for condonation of delay in restoration of the appeals and on such request made by the assessee by filing miscellaneous petitions for restoration, the Registry shall place such petitions before the appropriate Division Bench for orders.

6. The tax case appeals stand disposed of with the aforementioned liberty. Consequently, the substantial questions of law raised are left open. No costs. Consequently, the connected CMP is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2.The Deputy Commissioner of Income Tax, Circle-1, Erode.

3.The Commissioner of Income Tax
(Appeals)I, Coimbatore.

+1 CC to M/s. Subbaraya Aiyar Padmanabhan, Advocate sr 39483.
+1 CC to Mr.T.R.Senthilkumar, Advocate sr 39489.

VD(CO)
SP(08/01/2021)