IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

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

Tax Case Appeal No.304 of 2018

Subash Subramanian ...Appellant/Appellant

Vs

The Principal Commissioner of Income Tax-1, Chennai ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 31.3.2017 passed by the Income Tax Appellate Tribunal, Madras 'A' (SMC) Bench, Chennai made in I.T.A.No.3406/ Mds/2016 and against the order passed by the Commissioner of Income Tax (Appeals)-2 Chennai 34 dated 18.10.2016 made in I.T.A.No.88/CIT(A)-2/2015-2016

and as against the Assessment order passed by Income Tax Officer, Non Corporate Ward2(4) Chennai dated 31.03.2015 made in PAN/GIR No. EZJPS7395C for the Assessment year 2007-2008.

For Appellant: Mr.T.Vasudevan
For Respondent: Mr.T.Ravikumar, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 31.3.2017 made in I.T.A.No.3406/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai, 'A' (SMC) Bench ('the Tribunal' for brevity) for the assessment year 2007-08.

2. The appeal was admitted on 11.6.2019 on the following substantial questions of law :

> "(i) Whether the Tribunal was was right in law in upholding the estimate of the value of the property as on 01.04.1981 under Section 55A by the CIT(A) by enhancement, while there was no mandate under the provisions prior to the amendment? and

(ii) Whether the Tribunal was correct in upholding the estimate of value as on 01.04.1981, on its premise that the restriction under Section 55A was only on the AO and not on the powers of CIT(A)?”

3. We have heard Mr.T.Vasudevan, learned counsel appearing for the appellant/assessee and Mr.T.Ravikumar, Senior Standing Counsel appearing for the respondent/Revenue.

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 19.12.2020 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.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal, 'A' (SMC) Bench, Chennai.

2.The Principal Commissioner of Income Tax-1, Chennai

3.The Commissioner of Income Tax (Appeals)-2
Chennai 34.

4.The Income Tax Officer
Non Corporate Ward 2(4) Chennai

Copy to
The Assistant Registrar
AE Main
High Court, Madras 104.

+1 CC to Mr.T.Ravikumar, Advocate sr 42835.

TCA.No.304 of 2018

RP(CO)
SP(29/01/2021)