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.511 of 2018

Price Waterhouse & Co.,
Chennai-6 ...Appellant

Vs

The Principal Commissioner of
Income Tax-5,
121,Mahathma Gandhi Road,
Chennai ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.9.2017 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai made in I.T.A.No.229/Mds/2017 for the assessment year 2010-11 appeal against the order by the office of the Commissioner of Income Tax Appeals 4,Chennai 34 dated 31.10.2016 made in ITA.NO.88/2015-2016/ Assessment Year 2010-11/CIT(A)-41 for the Assessment Year 2010-2011.

For Appellant: Mr.N.V.Balaji
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 21.9.2017 made in I.T.A.No.229/Mds/2017 on the file of the Income Tax Appellate Tribunal, Chennai, 'C' Bench ('the Tribunal' for brevity) for the assessment year 2010-11.

2. The appeal was admitted on 16.8.2018 on the following substantial questions of law :

> "1. Whether, under facts and circumstances of the case, the Tribunal was right in holding that the reopening of the assessment is valid?
>
> 2. Is the finding of the Tribunal that there was no change of opinion not perverse particularly when the reopening was made based on the material available before the Assessing Officer, which were examined in the course of original assessment?"

3. We have heard Mr.N.V.Balaji, learned counsel for the appellant/assessee and Mr.T.Ravikumar, learned 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 04.12.2020 and orders were passed on 15.12.2020 in Form No.3.

5. In the light of the subsequent event, the assessee is given liberty to restore this appeal in the event the ultimate decision 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)

//True Copy//

Sub Assistant Registrar

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

2.The Principal Commissioner of
Income Tax-5,
121,Mahathma Gandhi Road,
Chennai

3.The Commissioner of Income Tax Appeals 4,
121,Mahathma Gandhi Road,
Chennai.

+1cc to Mr.T.Ravi Kumar , Advocate SR.No. 42461

TCA.No.511 of 2018

A.SK(17.02.2021).