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 No.484 of 2019

The Commissioner of Income Tax,
Non Corporate Circle-10, Chennai. ...Appellant

Vs

Shri Habib Abdul Latif ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 25.2.2019 passed by the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai made in I.T.A.No.3207/Chny/2017 for the assessment year 2014-15 against the order date 31.10.2017 passed by the Commissioner of Income-Tax (Appeals)-12, Chennai made in ITA No.155/CIT(A)-12/2016-17 for the Assessment year 2014-2015 and against Assessment order 30.12.2016 passed by the Assistant-Commissioner of Income Tax, Non corporate Circle-10(1), Chenna made in PAN No.ASBPS36311 for the Assessment Year 2014-15.

For Appellant: Mr.M.Swaminathan, SSC assisted by Mrs.V.Pushpa, Senior Counsel

For Respondent: Mr.G.Baskar

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 25.2.2019 made in I.T.A.No.3207/Chny/2017 on the file of the Income Tax Appellate Tribunal, Chennai, 'B' Bench ('the Tribunal' for brevity) for the assessment year 2014-15.

2. The above appeal was admitted on 19.7.2019 on the following substantial questions of law :

> "i. Whether, on the facs and in the circumstances of the case and in law, the Income Tax Appellate Tribunal was right in allowing the expenditure when the assessee has not proved the genuineness of the expenses before any of the lower authorities

? and

ii. Whether, on the facts and in the circumstances of the case and in law, the Income Tax Appellate Tribunal erred in allowing the appeal of the assessee when the onus was on the assessee to prove beyond doubt that the expenses claimed was genuine?”

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Mrs.V.Pushpa, learned Standing Counsel appearing for the appellant/Revenue and Mr.G.Baskar, learned counsel appearing for the respondent/assessee.

4. The learned counsel on behalf of the respondent/assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 13.8.2020 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 to be 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 are left open. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to Mr.G.Baskar Advocate SR.NO.39370

+1cc to Mr.M.Swaminathan Advocate SR.NO.39488

SDR 19/12/2020