IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.421 of 2020

Shri Kummathi Rameswara Reddy,
Flat 6 Viswaretha Apartments,
Old No.28, New No.16,
7th Cross Street, Shastri Nagar,
Adyar, Chennai - 20. ...Appellant/Appellant

Vs

Deputy Commissioner of Income Tax,
Non Corporate Circle 17,
121, Mahathma Gandhi Salai,
Chennai. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 01.03.2019 made in ITA.No.1263/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench, for the assessment year 2014-15, against the order passed by the Commissioner of Income Tax(Appeals)-5, Chennai-34, dt.06.02.2018 made in ITA.No.258/CIT(A)-5/2016-17 and against the order passed by the Assistant Commissioner of Income Tax, Non-Corporate Circle-17(1) Chennai, dt.28/10/2016 made in PAN/GIR No.AASPR9595D, for the Assessment year 2014-15.

For Appellant: Mr.N.V.Balaji

For Respondent:Mr.T.Ravikumar
Senior Standing Counsel

JUDGMENT
(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 01.03.2019 made in ITA.No.1263/Chny/2018 on the file of the Income Tax Appellate Tribunal, Madras 'D' Bench ('the Tribunal' for brevity) for the assessment year 2014-15.

2. The appeal was admitted on 07.12.2020 on the following substantial questions of law:

> "1. Whether, under the facts and circumstances of the case, the Tribunal was right in holding that the stock appreciation rights received by the appellant is taxable under the head 'salaries'?
>
> 2. Whether, under the facts and circumstances of the case, the Tribunal was right in rejecting the alternate submission of the appellant that the SAR received by the appellant is a capital receipt and therefore not taxable? and
>
> 3. Whether, under the facts and circumstances of the case, the Tribunal is right in rejecting the alternate submission of the appellant that the SAR received by the appellant is a capital asset and the gain could not be taxed since there is no cost of acquisition?"

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 for the appellant-assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and Form No.3 was issued on 18.12.2020.

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-IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Income Tax Appellate Tribunal,
   Madras 'D' Bench, Chennai.

2. The Deputy Commissioner of Income Tax,
   Non Corporate Circle 17,
   121, Mahathma Gandhi Salai,
   Chennai.

3. The Commissioner of Income Tax(Appeals)-5,
   121, Mahathma Gandhi High Road,
   Nungambakkam, Chennai-34.

4. The Assistant Commissioner of Income Tax,
   Non-Corporate Circle 17(1),
   Chennai.

5. The Section Officer,
   A.E.Section,
   High Court, Madras.

6. The Section Officer,
   Judicial Section,
   High Court, Madras.

+1cc to M/s.T.Ravikumar, Advocate, S.R.No.16587
+1cc to Mr.N.V.Balaji, Advocate, S.R.No.16814

TCA.No.421 of 2020

BS(CO)
CB(16/04/2021)