IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V. THAMILSELVI

Tax Case Appeal No.1233 of 2008

Thiru. I. Selvam,
N.K. Colony,
Ammapalayam,
Attur. ... Appellant

v.

The Deputy Commissioner of Income Tax,
Special Investigation Circle,
Salem - 636 007. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 filed against I.T.(SS)A. No.84/Mds/2001 for the Block Assessment Year 01.04.1988 to 30.07.1998 in the common order of the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 30.11.2005 in appeals filed by the Department in I.T.(SS)A Nos. 82 to 84 & 86 to 89/Mds/2001 for the

Block Assessment Year 01.04.1988 to 30.07.1998 and in Cross Objections filed by the Assessees in C.O. Nos. 66, 68. to 73/Mds/2001 for the Block Assessment Year 01.04.1988 to 30.07.1988..

For Appellant : Mr. M.P. Senthil Kumar

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
Asst. by Ms. K.g. Usha Rani

J U D G M E N T

(Judgment was Delivered by M.DURAISWAMY, J)

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the I.T.(SS)A. No.84/Mds/2001 for the Block Assessment Year 01.04.1988 to 30.07.1998 in the common order of the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 30.11.2005 in appeals filed by the Department in I.T.(SS)A Nos. 82 to 84 & 86 to 89/Mds/2001 for the Block Assessment Year 01.04.1988 to 30.07.1998 and in the Cross Objections filed by the Assessees in C.O. Nos. 66, 68. to 73/Mds/2001 for the Block Assessment Year 01.04.1988 to 30.07.1988.

2. The appeal was admitted on 18.08.2008 on the following Substantial Questions of Law:

" (i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the Assessing Officer need not record his satisfaction for issue of notice udner section 158BD?

(ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the income recorded in the regular books had to be treatead as undisclosed income even when due date for filing return had not expried as on the date of search, merely because assessee had admitted the name as undiscclosed income in the return ? "

3. We have heard Mr. M.P. Senthil Kumar, learned counsel for the appellant and Mr.T.R.Senthil Kumar, learned Standing Counsel for the respondent.

4. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain

subsequent developments. The Government of India enacted the **Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020)** to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

5. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Form - 1 on 30.12.2020 under Section 4 of the Act.

6.. In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping this appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal stands disposed of on the ground that the assessee has already filed requisite Form - 1 and the Department shall process the application at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest. As observed, 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 Division Bench for orders.

7. With these observations, the Tax Case Appeal stands disposed of with the aforementioned liberty and Consequently, the Substantial Questions of Law are left open. No costs.

(M.D.,J.) (T.V.T.S.,J.)
04.02.2021
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Index : Yes/No
Internet : Yes
Rj

To

1. The Income Tax Appellate Tribunal,
   Chennai "C" Bench .

2. The Deputy Commissioner of Income Tax,
   Special Investigation Circle,
   Salem - 636 007.

M. DURAISWAMY, J.
and
T.V. THAMILSELVI, J.

Rj

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