IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case Appeal Nos.1402 to 1404 of 2009
and
M.P.Nos.1, 1 & 1 of 2010

Shri A.R.Viswanathan,
424, Raja Street,
Coimbatore – 641 001. ... Appellant in all appeals

Vs.

The Assistant Commissioner of Income Tax,
Circle-III,
Coimbatore. ... Respondent in all appeals

Tax Case Appeals in T.C.A Nos.1402 to 1404 of 2009 filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "B" Bench, dated 21.08.2009 passed in I.T.A.Nos.9/Mds/2009, 10/Mds/2009 and 11/Mds/2009 for the assessment year 1993-94, 94-95 & 95-96 respectively as against the order dated 02.12.2008 by the office of the Commissioner of Income Tax (Appeals)-I, in P.A.No.ABGPV5965Q Assessment Year(S)-1993-94, 1994-95 & 1995-96 and as against the order dated 20.12.2007 by the order of the Assistant Commissioner of Income Tax, Circle III P.A.No.ABGPV5965Q Assessment Year 1995-96 and as against the order dated 20.12.2007 by the office of the Assistnat Commissioner of Income Tax, Circle III in P.A.No.ABGPV5965Q Assessment Year 1994-95 and as against the order dated 20.12.2007 by the Office of the Assistant Commissioner of Income Tax, Circle III in P.A.No.ABGPV5965Q Assessmnet Year 1993-94 and as against the order dated 30.05.2006 by the Office of the Assistant Commissioner of Income Tax Circle III in PA No.ABGPV5965Q/Block Asst. Assessment year 01.04.1985 to 12.09.95 and against the order dated 30.05.2005 by the Office of the Income Tax Appellate Tribunal, Chennai Bench 'D'in ITA No.2241/Mds/1996 and I.T.A No.2242/MDS/1996 Assessment Year . 01.04.1985 to 12.09.1995 and against the order dated 30.09.1996 by the office of the Assistant Commissioner of Income Tax, Special Investigation Cirle III P.A.No.49-512-PX-3904/SIC-III/CBE Assessment year 01.04.1985 to 12.09.1995.

For Appellant : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar Padmanabhan
in all appeals

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
in all appeals

COMMON JUDGMENT

(Delivered by M.DURAISWAMY, J.)

The above appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 21.08.2009 passed by the Income Tax Appellate Tribunal, Chennai "B" Bench, ('the Tribunal' for brevity) in I.T.A.Nos.9/Mds/2009, 10/Mds/2009 and 11/Mds/2009 for the assessment years 1993-94, 1994-95, 1995-96 respectively. The above appeals were admitted on 22.12.2009 on the following substantial questions of law :

"1.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessment order passed on December, 2007 under Section 143(3) r/w. Section 147, more than 3 years from the end of the assessment year is not time barred?

2.Whether on the facts and in the circumstances of the case, the Tribunal was right in confirming the order made u/s.147 r/w.Section 150(1) when it is not on the basis of any finding or direction of Tribunal?

3.Whether in the absence of any finding or direction in the order of the Tribunal in I.T.A.Nos.2241 to 2242 of 1996 dated 30.05.2005 as envisaged u/s.150(1), proceedings u/s.147 and 148 can be initiated disregarding the statutory time limit u/s.149 and prohibition u/s.150(2)?

4.Whether on the facts and in the circumstances of the case, the Tribunal was right in confirming the order of the CIT (Appeals) holding that the addition in respect of NRI gifts made in the block assessment was deleted and therefore the same is liable for inclusion in the respective assessment years by applying explanation 2 to Section 153?"

2. We have heard Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the appellant/ assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent/Revenue.

3. 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.

4. We are informed by the learned counsel for the appellant/ assessee that the assessee had already been issued with Form-3 on 09.12.2020 and the learned counsel for the appellant seeks permission of this Court to withdraw the above appeals.

5. In view of the submission made by the learned counsel for the appellant/assessee, the above Tax Case Appeals stand dismissed as withdrawn. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Chennai "B" Bench

2.The Assistant Commissioner of Income Tax,
Circle-III,
Coimbatore.

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.24549

+1cc to M/s.Subbaraya Aiyar, Advocate SR.No.24545

T.C.A. Nos.1402 to 1404 of 2009

SSN(CO)
GMY(28/06/2021)