IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.08.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.22239 & 22240 of 2006
and
MP No.2 of 2006

V.R.Murthy ... Petitioner in both WPs.

Vs

1. The Commissioner of Income Tax,
Pondicherry.

2. The Income Tax Officer,
Pondicherry. ... Respondents in both WPs.

PRAYER in WP No.22239 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent above named in Ref.C.No.9127A(37)/ CIT/PDY/2006-07 on his files in revision under section 264 of the Income Tax Act 1961 quash the order passed therein dated 25.05.2006 in respect of the assessment year 2001-2002 and further direct that the capital loss of Rs.15,95,000/-determined be ordered to be carried forward u/s.72 of the Income Tax Act 1961.

PRAYER in WP No.22240 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent above named in Ref.C.No.9127A(38)/ CIT/PDY/2006-07 on his files in revision under section 264 of the Income Tax Act 1961 quash the order passed therein dated 29.05.2006 in respect of the assessment year 2003-2004 and further direct that the capital loss of Rs.15,95,000/- relating to the assessment year 2001-02 to be set off against the capital gains resulting in no payment of tax.

For Petitioner in both WPs.	:	Mr.R.L.Ramani, Sr. Counsel for Mr.K.J.Chandran.
For Respondents in both WPs.	:	Mr.A.N.R.Jaya Prathap Jr. Standing Counsel for Income Tax.

COMMON ORDER

The learned Senior Counsel appearing on behalf of the writ petitioner/assessee made a submission that the Commissioner of Income Tax passed orders on 25.05.2006 and 29.05.2006 for the Assessment Years 2001-02 and 2003-04, respectively and the demand raised pursuant to the said orders under Section 156 of the Income Tax Act, is also responded and thereafter, the petitioner submitted an application under 'VIVAD SE VISHWAS' Scheme and the amount demanded by the Revenue was paid by the petitioner/assessee and the Cyber Receipts are also placed before this Court.

2. The learned Senior Counsel further contended that the petitioner/assessee has paid excess tax and the petitioner/assessee is entitled for refund.

3. In this regard, it is for the petitioner/assessee to submit necessary application and the respondents shall consider the same and take a decision in accordance with law, if the petitioner/assessee is otherwise eligible.

4. In view of the payment of tax already made by the petitioner/assessee, no further adjudication needs to be entertained in respect of the grounds raised in these writ petitions.

5. Accordingly, the writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ars

To
1.The Commissioner of Income tax,
Pondicherry.

2.The Income Tax Officer,
Pondicherry.

+1cc to Mr.B.Raveendran, Advocate Sr No.39395
+1cc to Mr.A.P.Srinivas, Advocate Sr No.39515

WP Nos.22239 & 22240 of 2006

SPD (CO)
PR (31/08/2021)