IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2021

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

Tax Case Appeal Nos.144 to 147 of 2010

M/s.Tarapore & Co.
Dhun Building,
827, Anna Salai,
Chennai - 600 002. ...Appellant in all 4 TCAs

Vs.

The Assistant/Joint Commissioner of Income Tax,
Company Circle VII/Business Range VII,
Chennai - 600 034. ...Respondent in all 4 TCAs

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench,Chennai dated 14.12.2009 passed in I.T.A.Nos.1256 to 1259/ Mds/2002 against the order of the Commissioner of Income Tax(Appeals)-IX, Chennai, dated 01/03/2002, made in IT/Appeal No.381/1997-98, 137/1997-98, 100/1998-99 and 309/1998-99 for the assessment year 1993-94, 1994-95, 1996-97 against the order of the Deputy Commissioner of Income Tax Special Range IX, Chennai, dated 21/05/97 and 2813/1996 made in u/sec 143 r/w sec 147 of the Income Tax Act for the assessment year 1993-94.

Against the order of the Deputy Commissioner of Income Tax Special Range IX, Chennai dated 21/03/97, 31/03/98 and 16/11/1998 for the assessment year 1994-95, 1995-96, 1996-97.

For Appellant (in all 4 TCAs) : Mr.M.Kaushik for M/s.S.Sridhar

For Respondent (in all 4 TCAs) : Ms.Brinda and Mr.Karthick Ranganathan, Senior Standing Counsel

C O M M O N   J U D G M E N T
(Delivered by M. DURAISWAMY, J)

These appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 14.12.2009 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.Nos.1256 to 1259/Mds/2002 for the Assessment Years 1993-94, 1995-96, 1994-95 and 1996-97. The above appeals were admitted on 08.02.2010 on the following Substantial Questions of Law for consideration:

> "1)Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the reassessment made under Section 143 (3) read with Section 147 is valid?
>
> 2)Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that there was a conversion of fixed assets into stock in trade by the assessee and the provisions of section 45(2) was attracted?"

2. We have heard Mr.M.Kaushik, learned counsel for the appellant/assessee and Ms.Brinda, learned 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 respondent/ assessee that the assessee has already filed the requisite Forms 1 & 2 on 30.12.2020 in all the above appeals under Section 4 of the Act.

5. 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 appeals 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 Appeals stand disposed of on the ground that the assessee has already filed the requisite Forms 1 & 2 in all the above appeals and the Department shall process the applications 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 appeals 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 appeals 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.

6. With this observation, the Tax Case Appeals stand disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Madras "C" Bench

2.The Assistant/Joint Commissioner of Income Tax,
Company Circle VII/Business Range VII,
Chennai - 600 034.

3.The Commissioner of Income Tax(Appeals) IX, Chennai.

4.The Deputy Commissioner of Income Tax,
Special Range IX, Chennai.

Tax Case Appeal Nos.144 to 147 of 2010

GP(CO)
KKV/11/03/2021
KKV/19/03/2021