IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.289 of 2010

Commissioner of Income Tax,
Chennai ... Appellant

Vs.

M/s.Subuthi Finance Ltd.,
15, Kadhar Nawaz Khan Road,
Chennai 600 006. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 03.06.2009 passed in I.T.A.No.2100/mds/2008, appeal against the order dated 03/04/2008 made in ITA.No.405/06-07 on the file of the Commissioner of Income Tax(Appeals)-V, Chennai-34, appeal against the order dated 29/11/2006 made in PAN/GIR No.AAPCS4074A/SV-57 on the file of the Deputy Commissioner of the Income Tax Company circle VI(4)Chennai-34 for the Assessment year 1999-2000

For Appellant : Mr.J. Narayanasamy
Senior Standing Counsel
For Respondent : Mr.Sridhar

J U D G M E N T
(Judgment was delivered by R. MAHADEVAN, J.)

This Tax Case Appeal has been filed by the appellant / Revenue challenging the order dated 03.06.2009 passed by the Income Tax Appellate Tribunal, Bench 'A', Chennai ('the Tribunal', for brevity) in I.T.A.No.2100/mds/2008 for the Assessment Year 1999-2000.

2.The above appeal was admitted on 08.06.2010 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 assessee is entitled for depreciation on the account of 2 wind mills which were added to the fixed assets valued at Rs.1.8 crores when the insurance policy, TNEB certificate, sale deed of the land relating to the windmills proved that the assessee was not the owner of the wind mills?”

3.When the matter was taken up for consideration, the learned counsel appearing for the respondent / assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 04.03.2021 by the Income Tax Department. The learned counsel has also filed a memo to that effect.

4.The aforesaid submission made by the learned counsel for the respondent / assessee has also been fairly conceded by the learned senior standing counsel appearing for the appellant / Revenue.

5.This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matters connected therewith or incidental thereto, which came into force with effect from 17.03.2020; and the declarations submitted by them were also accepted and Form 3 was also issued to the assessee by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial question of law arisen in this tax case appeal.

6.Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of, directing the department to process the application at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

msr

To

1.The Income Tax Appellate Tribunal, Madras “A” Bench

2.The Commissioner of Income Tax,
Chennai.

3.The Deputy Commissioner of Income Tax,
Company Circle VI(4) Chennai.

Tax Case Appeal No.289 of 2010

CB(27/12/2021)