IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021
CORAM

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

Tax Case Appeal No.418 of 2010

T.N.Gopal ...Appellant/Appellant

Vs.

Assistant Commissioner of Income Tax,
Salary Circle IV, Aayakar Bhavan,
New Block 5th Floor, 121, M.G. Road,
Chennai – 600 034. ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 26.06.2009 passed in C.O.No.116/Mds/08 in I.T.A.No.231/Mds/2008 against the order of the Commissioner of Income Tax (Appeals) VI, Chennai dated 26.10.2007 and made in I.T.A.No.31/2007-2008 against the assessment order dated 18/01/2006 of the Assistant Commissioner of Income Tax, Chennai and made in PAN/GIR No. AAEPG0025F for the Assessment year 2000-2001.

For Appellant : Mr.R.Sivaraman

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

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

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order, dated 26.06.2009, passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in C.O.No.116/Mds/08 in I.T.A.No.231/Mds/2008 for the Assessment Year 2000-01. The above appeal was admitted on 07.06.2010 on the following Substantial Questions of Law:

> "1.Whether on the facts and circumstances of the case, the Appellate Tribunal is right in law in dismissing the cross objection filed by the appellant on the ground of limitation ?

2.Whether on the facts and circumstances of the case, the Appellate Tribunal is right in law in holding that the re-assessment u/s.148 r/w. 143(3) is valid in law even after the order passed by the Assessing Officer u/s.154 on the same issue was set aside by the CIT (A) and the same was accepted by the Department?

3.Whether on the facts and circumstances of the case, the Assessing Officer has got jurisdiction to issue notice u/s.148 of the Act in respect of the same issue wherein proceedings u/s.154 was initiated and set aside by higher authority?”

2. We have heard Mr.R.Sivaraman, learned counsel for the appellant/ assessee and Mr.T.Ravikumar, 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 has already filed the requisite Forms 1 & 2 on 18.02.2021 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 the 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 the requisite Forms 1 & 2 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 the 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.

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

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

mk

To

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

2.The Commissioner of Income Tax (Appeals)VI
No. 121 Mahathma Gandhi Road
Chennai 600 034.

3.The Assistant Commissioner of Income Tax,
Salary Circle IV, Aayakar Bhavan,
New Block 5th Floor, 121, M.G. Road,
Chennai – 600 034.

+1 CC to Mr.T.Ravikumar,Senior Standing Counsel sr 12607.

Tax Case Appeal No.418 of 2010

GJ(CO)
SP(10/08/2021)