IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

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

TAX CASE APPEAL NO.798 OF 2010

Smt.S.Usha ...Appellant

Vs.

The Income Tax Officer,
Ward - II(1),
Kovai - 641 018. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "B" Bench, dated 24.09.2009 passed in I.T.A.No.197/Mds/2009 preferred against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore order dated 12.12.2008 made in Appeal No.234/2007-08 preferred against the order of the Income Tax Officer, Ward II(1), Coimbatore, order dated 04/01/2008 made in PAN No.AANPU3107F for the Assessment Year 2005-06.

For Appellant : Mr.M.P.Senthil Kumar
For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel

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

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 24.09.2009 passed by the Income Tax Appellate Tribunal, Chennai "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.197/Mds/2009 for the assessment year 2005-2006. The above appeal has been admitted on 10.08.2010 on the following Substantial Questions of Law:

> “(1)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in upholding the jurisdiction of the Assessing Officer to reopen the assessment under Section 147?

(2)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that Long Term Capital Gains had arisen in the Assessment Year 2005-2006, in respect of transfer of the property under the Sale Deed dated 7.5.2004 without considering the applicability of Section 2(47)(v) of the Income Tax Act, 1961, read with Section 53A of Transfer of Property Act, 1882 with reference to the agreement dated 21.01.2000 read with supplementary agreement dated 7.12.2001?

(3)Whether on the facts and in the circumstances of the case the income Tax Appellate Tribunal was right in law in holding that Section 50C of Income Tax Act, 1961 is applicable in respect of transfer of the property under the Sale Deed dated 7.5.2004 without considering the Sale Deed applicability of Section 2 (47)(v) of Income Tax Act, 1961. read with Section 53A of Transfer of Property Act, 1882 with reference to the agreement dated 21.1.2000 read with Sale deed dated 7.5.2004 without considering the applicability of Section 2(47)(v) of Income Tax Act, 1961 read with Section 53A of Transfer of Property Act, 1882 with reference to the agreement dated 21.1.2000 read with supplementary agreement dated 7.12.2001?

(4)Whether on the facts and in the circumstances of the case and in view of the applicability of the obligations cast upon the parties, under the Indian Contract Act and Specific Relief Act, the sale consideration agreed to on 21.1.2000 could be artificially deemed on an enhanced amount under Section 50C, especially when the provisions of Section 50C were not existing as on the date of Sale Agreement dated 21.1.2000 when it was entered into between the parties?

(5)Whether on the facts and in the circumstances of the case the Income Tax appellate Tribunal was right in law in holding that Fair Market Value as on 1.4.1981 has to be adopted as per the guideline value?”

2. We have heard Mr.M.P.Senthil Kumar, 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 17^{th} March 2020 and published in the Gazette of India on 17^{th} 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 29.01.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Income Tax Officer,
Ward - II(1),
Kovai - 641 018.

3.The Commissioner of Income Tax(Appeals)-I,
Coimbatore.

+1cc to Mr.M.P.SenthilKumar, Advocate, S.R.No.11303
+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.11078

Tax Case Appeal No.798 of 2010

CP(CO)
KKV/19/03/2021