IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.1.2021
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA
Tax Case Appeal No.99 of 2020

The Commissioner of Income Tax,
Non Corporate Circle 10(1),
Chennai ...Appellant

Vs

Shri Ramautar Agarwal ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 16.9.2019 passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai made in I.T.A.No.211/Chny/2019 for the assessment year 2014-15.

Appeal filed against the order passed by the Commissioner of Income-Tax(A) Chennai-34 dated 28/12/2018 made in ITA.No.146/CIT (A)12/2016-2017, and against the Assessment order passed by the Assistant Commissioner of Income Tax, Non Corporate Circle-10 (1), Chennai, dated 30/12/2016 made in PAN AADPR0951N.

For Appellant: Mr.M.Swaminathan, SSC assisted by
Ms.V.Pushpa, JSC
For Respondent: Mr.A.S.Sriraman

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 16.9.2019 made in I.T.A.No.211/Chny/2019 on the file of the Income Tax Appellate Tribunal, Chennai, 'B' Bench ('the Tribunal' for brevity) for the assessment year 2014-15.

2. The appeal was admitted on 19.2.2020 on the following substantial questions of law:

> “1. Whether the Income Tax Appellate Tribunal was right and justified in setting aside the order passed by the Assessing Officer to re-examine the matter when the Assessing Officer has already duly examined the matter before passing the assessment order? And 2. Whether the Income

> Tax Appellate Tribunal was right in justified in remitting the issue back to the file of the Assessing Officer and shifting the onus to the Revenue with a direction that the Assessing Officer shall bring on record the role of the assessee in promoting the company and the relationship of the assessee, if any with the promoters, role of the assessee in inflating the price of shares etc. ?”

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Junior Standing Counsel appearing for the appellant/Revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent/assessee.

4. The learned counsel on behalf of the respondent/assessee submits that the respondent/assessee already filed the declaration/ undertaking under the Vivad Se Vishwas Scheme on 29.12.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this 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 appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

rs

To

1.The Income Tax Appellate Tribunal, 'B' Bench, Chennai.

2.The Commissioner of Income Tax(A)
Chennai

3.The Assistant Commissioner of Income Tax
Non Commissioner of Income Tax,
Non Corporate Circle-10(1),
Chennai

+1 cc to Mr.M.Swaminathan Advocate sr2445

TCA.No.99 of 2020

ev(co)
aa10/02/2021