IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.3.2021
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA
Tax Case Appeal No.91 of 2020

The Commissioner of Income Tax,
Non Corporate Circle 14(3),
Chennai. ... Appellant

Vs

M/s.Phool Chand Mangal Chand
No.37, Anna Nedumpathai,
Choolaimedu, Chennai-600 094. ... 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.1495/Chny/2019 for the assessment year 2014-15, made against the order of the Commissioner of Income Tax Appeals-7, Chennai, in ITA No.319(T)/CIT(A)-7/2016-17, dated 27.03.2019 PAN AAEHP1953M for the Assessment year 2014-15, against the Assessment Order dated 31.12.2016 made by the Income Tax Officer, Non Corporate Ward-14(3), Chennai-34, for the assessment year 2014-15.

For Appellant: Mr.M.Swaminathan, SSC assisted by Mrs.V.Pushpa, JSC
Respondent : served and no appearance

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.1495/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 :

> ""i. 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

ii. Whether the Income Tax Appellate Tribunal was right and 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 Mrs.V.Pushpa, learned Junior Standing Counsel for the appellant/Revenue. Though the respondent is served and their name printed in the cause list, none appears for the respondent.

4. The learned counsel for the assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and orders were passed on 18.12.2020 in Form No.3.

5. In the light of the subsequent event, the assessee is given liberty to restore this appeal in the event the ultimate decision 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.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax, Non-Corporate Circle 14(3),
   Chennai.

3. The Commissioner of Income Tax (Appeals)-7,
   Chennai,.

4. The Income Tax Officer, Non Corporate Ward-14(3),
   Chennai-34.

+1cc to Mr.M.Swaminathan, Advocate, SR.No.15062.

TCA.No.91 of 2020

AK-II(CO)
CSR 15.04.2021