IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM

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

Tax Case Appeal No.200 of 2011

The Income Tax Officer (OSD),
Media Circle I,
Chennai. ... Appellant

v.

M/s. Anand Citi Centre Holdings P. Ltd.,
Successor of Anand Threatres (Firm),
No. 10 & 11, Chennai City Centre,
Radhakrishnan Salai, Mylapore,
Chennia - 600 004.
PAN : AAA FA 7457 M ... 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 22.10.2010 passed in I.T.A.No.1100/Mds/2010 for the assessment year 2007-08, against the order of the commissioner of Income Tax,(A)-VI, Chennai-34 dated 25/06/2010 in ITA No.94/09-10 for the Assessment year 2007-08, against the proceedings of the Income Tax Officer (OSD), Mdeia, Circle-I, Chennai-34, dated 31.12.2009 in PAN/GIR No.AAAFA7457M.

For Appellant : Ms. V. Pushpa
Standing Counsel
For Respondent : Mr. R. Sivakumar

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

This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 22.10.2010 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, ('the Tribunal' for brevity) in I.T.A.No.1100/Mds/2010 for the assessment year 2007-08.

2. The appeal was admitted on 15.06.2011 on the following Substantial Questions of Law:

> " (i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in quashing the whole assessment as void and made on non-existent assessee without considering section 170(1)(a) of the Income Tax Act, 1961? and
>
> (ii) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in holding that there is no element of transfer of property which warrants levy of Long Term Capital Gains?"

3. We have heard Ms. V. Pushpa, learned Standing Counsel for the appellant and Mr. R. Sivakumar, learned counsel for the respondent.

4. 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.

5. We are informed by the learned counsel for the respondent/assessee that the assessee has already filed the requisite Forms 1 and 2 on 29.01.2021 under Section 4 of the Act.

6. . 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 this 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 requisite Forms 1 and 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 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 Division Bench for orders.

7. With these observations, the Tax Case Appeal stands disposed of with the aforementioned liberty and Consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Registrar Income Tax Appellate Tribunal,

Madras "C" Bench,
Chennai.

2. The Commissioner of Income Tax (Appeals)-VI,
Chennai-34.

3. The Income Tax Officer(OSD),Media Circle-I,
Chennai-34.

+1 cc to M/s.M.Swaminathan, Advocate Sr.No. 6404

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PPA(CO)
RMP(26/02/2021)