IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.02.2021

CORAM:

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

T.C.A.Nos.44 & 45 of 2011

K. Meenakshisundraam ... Appellant in both TCA

v.

The Commissioner of Income Tax.
Chennai II,
Chennai ... Respondent in both TCA

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the common order of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench, dated 05.01.2009 in I.T(ss) A.No.118/Mds/2007 & I.T(ss)A.No.124/Mds/2007 for the Assessment Years 1989-90 to 2001-02. Appeal filed against the order of Commissioner of Income-Tax(Appeals)-II Madurai dated 30/04/07 and made in PAN/GIR No:AAKPM6257B for the Assessment year 1989-90 to 2000-2001 as against the order of the Deputy Commissioner of Income Tax Central Circle-I, C.R.Buildings, V.P.Rathnasamy Nadar Road, Madurai-625 002 dated 28/12/2001 and made PAN/GIR No:A207, for the Assessment year 1990-91 to 2000-2001.

For Appellant : Mr.T.Vasudevan
(in both TCA)

For Respondent : Ms. S. Premalatha
(in both TCA) Standing Counsel

COMMON JUDGMENT
(Judgment was delivered by M. DURAISWAMY, J.)

These appeals, filed by the assessee under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the common order dated 05.01.2009 made in I.T(ss) A.No.118/Mds/2007 & I.T(ss)A.No.124/Mds/2007 on the file of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench (for brevity, the Tribunal) for the Assessment Years 1989-90 to 2001-02.

2.The appeals were admitted on 31.01.2011 on the following substantial questions of law:

> " (i) Whether on the facts and the circumstances of the case, the Tribunal is justified in law in rejecting the claim of bad debt of Rs.54,58,186/- being the amount of credit sales of jewellery shown as sundry debtors in the loose slips found in the course of search and outstanding on the date of search?
>
> (ii) Whether on the facts and in the circumstances of the case the conclusion of the Tribunal on the disallowance of claim of loss of Rs.6,55,143/- is perverse, though they were relatable only to the search material and not recorded in the books of the assessee even according to the assessing officer?
>
> (iii) Whether on the facts and the circumstances of the case, the Tribunal is justified in law in its conclusion that the amount of Rs.8,98,942/- wasthe UDI of the assessee considering that there was no search material to any such unexplained family expenses but was based only on the statement recorded from the assessee?"

3. We have heard Mr.T.Vasudevan, learned counsel for the appellant and Ms. S. Premalatha, learned Standing 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 17th March 2020 and published in the Gazette of India on 17th March 2020.

5. We are informed by the learned counsel for the appellant/assessee that in both the cases, the assessee has already filed the requisite Form 1 on 27.01.2021 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 appeals 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 Appeals stand disposed of on the ground that the assessee has already filed requisite Form 1 in both the cases and the Department shall process the applications 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 appeals 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 Appeals stand disposed of with the aforementioned liberty and Consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2.The Commissioner of Income Tax.
Chennai II.

3.The Commissioner of Income Tax(Appeals) II
Madurai.

4.Deputy Commissioner of Income Tax
Central Circle-I,
C.R.Building, V.P.Rathnasamy Nadar Road,
Madurai-625 002.

+1cc to Mr.R.Janakiraman, Advocate SR.9978
+1cc to Mr.M.Swaminathan, Advocate SR.9681

T.C.A.Nos.44 & 45 of 2011

KV(CO)
CB(10/03/2021)