IN THE HIGH COURT OF JUDICATURE AT Chennai

DATED: 18.02.2021

CORAM

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

Tax Case Appeal No.633 of 2011

A.Asangan ... Appellant/Appellant

v.

The Commissioner of Income Tax-III,
Trichy ... Respondent/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, Chennai, dated 06.05.2011 passed in I.T.A.No.1075/Mds/2010 for the Assessment Year 2005-06, against the proceedings of the Commissioner of Income Tax (Appeals) No.44, Williams Road, Contonment, Tiruchirappalli-620 001 made in ITA No.305 to 309/08-09 dated 20.04.2010 for the Assessment Year 2003-04 to 2007-08, against the proceedings of the Income Tax Officer, Ward-1(2), Nagapattinam made in GIR/PAN 8125-A/AKIPA2036N dated 24.12.2008 for the Assessment Year 2005-06.

For Appellant : Mr. T. Vasudevan

For Respondent : Ms. S. Premalatha
Standing Counsel

J U D G M E N T

(Judgment was 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 06.05.2011 passed by the Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1075/Mds/2010 for the Assessment Year 2005-06.

2. The appeal was admitted on 02.12.2008 on the following Substantial Question of Law:

> " Whether on the facts and the circumstances of the case, the Income Tax Appellate Tribunal is justified in law in confirming the order of the CIT (A)'s by sustaining the addition of Rs.8,32,203/- merely relying on the statement recorded u/s. 133A which has no evidentiary value as per the decision of the Madras High Court reported in 300 ITR 517?"

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 the assessee has already filed the requisite Form 1 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 Form 1 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 Question of Law are left open. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

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

2. The Commissioner of Income Tax-III,
   Trichy.

3. The Commissioner of Income Tax (Appeals),
   No.44, Williams Road,
   Cantonment, Tiruchirappalli-620 001.

4. The Income Tax Officer,
   Ward 1 (2), Nagapattinam.

5. The Record Keeper,
   VR Section, High Court, Madras.

Copy to

The Assistant Registrar,
Appeal Examiner Main Section,
High Court, Madras-104.

+1cc to Mr.R.Janakiraman, Advocate Sr.9977
+1cc to Mr.M.Swaminathan, Advocate Sr.9680

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srg 10/03/2021