IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

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

Tax Case Appeal No.429 of 2012

Smt.Shekhar Jeeva
No.60, Gandhi Street,
Krishnamoorthy Nagar,
Chennai. ... Appellant/Respondent

Vs.

Deputy Commissioner of Income Tax,
Business Circle X,
Chennai. ... Respondent/Appellant

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 11.05.2012 passed in I.T.A.No.1833/Mds/2008, against the order of the Commissioner of Income Tax (Appeals)-IV, Chennai No.121, Mahatma Gandhi Salai, Nungambakkam, Chennai-600 034 dated 20/06/2008 Appeal No.CIT (A)-IV/CHE/123/07-08 PAN AAJPJ8698A for the Assessment Year 2005-06 and against the order of the Assistant Commissioner of Income Tax, Circle -X, Chennai-600 006 dated 24/12/2007 PAN/GIR No.AEJPJ8698A District/Ward/Circle/ACIT, Circle X, Chennai-06, status Individual for the Assessment Year 2005-06.

For Appellant : Mr.R.Sivaraman

For Respondent : No appearance

J U D G M E N T

(Delivered by M. DURAISWAMY, J)

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order, dated 11.05.2012, passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1833/Mds/2008 for the Assessment Year

2005-06. The above appeal was admitted on 03.12.2012 on the following Substantial Question of Law:

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in confirming the addition of Rs.13,50,000/- made under Section 69 of the Income Tax Act even though the source of investments is explained and the amounts were paid in full and explained?"

2. We have heard Mr.R.Sivaraman, learned counsel for the appellant/ assessee.

3. It may not be necessary for this Court to decide the Substantial Question 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.

4. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Forms 1 & 2 on 24.02.2021 under Section 4 of the Act.

5. 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 the 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 the requisite Forms 1 & 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 the 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.

6. With this observation, the Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the Substantial Question of Law is left open. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal,
Madras "C" Bench.

2.The Deputy Commissioner of Income Tax,
Business Circle X,
Chennai.

3.The Commissioner of Income Tax (Appeals)-IV,
Chennai, 121, Mahatma Gandhi Salai,
Nungambakkam, Chennai-600 034.

4.The Assistant Commissioner of Income Tax Circle X,
Chennai.

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