IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM

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

Tax Case Appeal No.437 of 2012

Hiralal K.Jain ... Appellant

Vs.

The Income Tax Officer, Ward – i(3)
No.15, Gandhiji Road,
Erode – 638 001. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 22.08.2012 passed in I.T.A.No.1201/Mds/2010 preferred against the order of the office of The commissioner of Income Tax (Appeals)-I, Coimbatore. Date of Order 12/05/2010, Appeal No.237/2009 - 2010. Assessment Year 2007 to 2008 against the order of the office of The Income Tax Officer, ward-I(3), Erode District/Circle/ward: ward-I(3), Erode Dated 31/12/2009 PAN.No./GIR No.AGRPJ9611P Assessment year 2007 to 2008.

For Appellant : Mr.R.Kumar

For Respondent : Mr.T.R.Senthil Kumar,
Senior Standing Counsel
assisted by Mrs.K.G.Usha Rani,
Standing Counsel

J U D G M E N T

(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 22.08.2012 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No. 1201/Mds/ 2010 for the Assessment Year 2007-08. The above appeal was admitted on 25.04.2013 on the following Substantial Question of Law:

")Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in not adjudicating the claim that having invested the net consideration received as per the sale deed in a residential house the appellant is eligible for exemption under Section 54F in respect of the whole of the capital gains and for purposes of exemption under Section 54F full value of consideration should be read as referring to Section 48 only and not extended to Section 48 as modified by Section 50C?"

2. We have heard Mr.R.Kumar, learned counsel for the appellant/ assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent/ Revenue.

3. 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.

4. We are informed by the learned counsel for the appellant/ assessee that the assessee has already filed the requisite Forms - 1 & 2 on 30.03.2021 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 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 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 Forms 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

//True Copy//

Sub Assistant Registrar

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To

1. Income Tax Appellate Tribunal, Madras "B" Bench

2. The Income Tax Officer, Ward – i(3)
   No.15, Gandhiji Road,
   Erode – 638 001.

3. The Commissioner of Income Tax (Appeals)-I,
   Coimbatore.

4. The Section Officer,
   A.E Section, High Court, Madras.

5. The Section Officer,
   Judicial Section, High Court, Madras.

+1cc to Mr.T.R.Senthil Kumar, Advocate, S.R.No.21065

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JP-II(CO)
HS(02/08/2021)