IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.02.2021
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

T.C.A.Nos.816 to 818 of 2019

Commissioner of Income Tax,
Corporate Circle 3,
Chennai. .. Appellant in all Appeals

-vs-

M/s.VGN Builders Private Limited,
333, Poonamallee Road,
Amaaindakarai, Chennai-600 029.
PAN: AADCV1416B .. Respondent in all Appeals

Appeals under Section 260A of the Income Tax Act, 1961 against the order dated 03.10.2018, made in I.T.A.Nos.1124, 1126 & 1125/Chny/2018 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2012-13, 2014-15 and 2013-14 respectively.

against the Common Order of the Commissioner of Income Tax (appeals)-11, Chennai, dated 27.12.2017 and madein ITA Nos.152/CIT(A)-11/2015-16; and 24 & 258/CIT(A)-11/2016-17 for the Assessment year 2012-13, 2013-14 and 2014-15 and against the order of the Assistant Commissioner of Income Tax, Corporate Circle 3-(2), Chennai, dated 23.03.2015, 29.03.2016 and 30.12.2016 respectively and made in GIR.No.PAN. AADCV1416B for the assessment year 2012-13, 2013-14 and 2014-15.

For Appellant : Mr.M.Swaminathan,
(In all Appeals) Senior Standing Counsel &
Ms.V.Pushpa,
Junior Standing Counsel

For Respondent : Mr.V.Ayyapparaja
(In all Appeals)

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COMMON JUDGMENT
(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

These appeals have been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 03.10.2018, made in I.T.A.Nos.1124, 1126 & 1125/Chny/2018 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai ('the Tribunal' for brevity) for the assessment years 2012-13, 2014-15 and 2013-14 respectively.

2.The appeals were admitted, on 11.11.2019, on the following substantial questions of law:

> "1.Whether on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal erred in holding that there was no violation of the provisions of Section 47(xiii) of the Act?
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> 2.Whether on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal erred in not considering that on succession, the cost of acquisition of the asset to the previous owner should be taken as the cost of acquisition of the asset to the successor entity as per Section 45(2) of the Income Tax Act, 1961? and
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> 3.Whether on the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal was justified in holding that the firm has borne the cost of additions created in the current account of the partners of erstwhile firm and such revaluation has been done at a cost?"

3.We have heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Junior Standing Counsel appearing for the appellant/Revenue and Mr.V.Ayyapparaja, learned counsel appearing for the respondent/assessee.

4.The learned counsel on behalf of the respondent/assessee submits that the respondent/assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 31.01.2021, and is awaiting orders to be passed in Form No.1.

5.In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore these appeals, 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 applications to be filed for condonation of delay in restoration of the appeals and on such request made by the assessee by filing miscellaneous petitions for restoration, the Registry shall place such petitions before the appropriate Division Bench for orders.

6.The tax case appeals stand disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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

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

3.The Assistant Commissioner of Income Tax,
Corporate Circle 3(2), Chennai.

4.The Deputy Commissioner of Income Tax,
Corporate Circle 3(2), Chennai.

+1cc Mr.Bharathkumar, Advocate, SR.No.11171.
+1cc to Mr.M.Swaminathan, Advocate, SR.No.10839.

T.C.A.Nos.816 to 818 of 2019

SSD(CO)
CSR 24.03.2021