IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.03.2021

CORAM:

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

T.C.A.No.1225 of 2015 &
M.P. No. 1 of 2015

Jaydeep Kumar Maheswari,
Prop. M/s. Alco Metals,
57/1, Moore Street,
Chennai - 600 001.
PAN ACNPJ 7942F ... Appellant

v.

The Income Tax Officer,
Business ward - VIII(4),
Chennai - 600 006. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai "A" Bench, dated 09.07.2015 in ITA.No.1157/Mds/2015 for the Assessment Year 2011.2012 Preferred against the order of the Income Tax Appellete Tribunal “A” Bench, chennai dated 09.07.2015 made in ITA.No.1157/mds/2015 for the Assessment year 2011-2012 preferred against the order of the commissioner of Income Tax (Appeals) -13, Nungambakkam, chennai-34, dated 10.03.2015 made in ITA.NO.33 CIT(A)-13/2013-14 preferred against the order of the Income Tax Officer, Business ward,VIII(4), Kannammal Building, No.611, Anna Salai, Chennai-600 006.dated 04.11.2013 made in PAN/GIR.No.ACNPJ7942F.

For Appellant : Ms. Vinu Pradha
for Dr.A.Thiyagarajan, SeniorCounsel

For Respondent : Mr.A.Swaminathan, Sr.Standing Counsel
and Ms.V.Pushpa, Jr. Standing Counsel

JUDGMENT

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

The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 09.07.2015 made in ITA.No.1157/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench (for brevity, the Tribunal) for the Assessment Year 2011.2012.

2.The appeal was admitted on the following substantial questions of law:

> " (i) Whether on the facts and circumstances of the case, the Hon'ble Tribunal was right in holding that the property is not an urban land within the meaning of Clause a to S.2(14)(iii) of the Income Tax Act, 1961 is correct in law when the documentary evidence would prove that the property is an agricultural land falling within the meaning of clause b to S.12(14(iii) of the Income Tax Act, 1961?
>
> (ii) Whether on the facts and in the circumstances of the case, the Hon'ble Tribunal was right in recording a finding contrary to the contemporaneous document produced by the appellant from the statutory revenue authorities corroborating the communication received by the Assessing Officer from the Deputy Registrar Aalot Jilla, Ratlam District Madhya Pradesh which establsihed that the land is agricultural land?"

3. We have heard Ms. Vinu Pradha, learned counsel for the appellant and Mr. A.Swaminathan, learned Senior 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. Ms. Vinu Pradha, learned counsel appearing for the appellant/assessee submitted that the assessee has already filed the requisite Forms 1 and 2 under Section 4 of the Act, hence, she seeks permission of this court to withdraw the Tax Case Appeal.

6. . Recording the submission made by the learned counsel for the appellant, the Tax Case Appeal is dismissed as withdrawn on the ground that the assessee has already filed requisite Forms 1 and 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 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 and Consequently, the Substantial Questions of Law are left open. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Income Tax Officer,
   Business ward - VIII(4),
   Chennai - 600 006.

2. The Income Tax Appellate Tribunal,
   Chennai,"A" Bench

3. The Commissioner of Inocme Tax(Appeals)-13,
   Nungambakkam, Chennai-34.

+1cc to M/s.S.Ramesh Kumar, Advocate, S.R.No.20006
+1cc to Mr.Swaminathan, Advocate, S.R.No.20078

T.C.A.No.1225 of 2015 &
M.P. No. 1 of 2015

GSM(CO)
SB(07/10/2021)