IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

TAX CASE APPEAL NO.164 OF 2015

Prof.K.Radha Shanmugasundaram,
No.9, 2nd Cross Street,
Seethamma Extension, Teynampet,
Chennai - 600 018. ... Appellant/Respondent

Vs.

The Income Tax Officer,
Salary Ward - II(3),
Chennai - 600 034. ... 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 "A" Bench, dated 04.07.2014 passed in I.T.A.No.1243/Mds/2009.

Against the order of the Commissioner of Income Tax (Appeals)-IV, Chennai, dated 26.05.2009 and made in Appeal No.CIT(A)-IV/CHE/126/08-09 against the Assessment order dated 31.12.2008 of Income Tax Officer, Salary Ward II (3), Chennai and made in G.I.R.No.P.A.NO.AEJPR6424E for the Assessment Year 2006-07.

For Appellant : Mr.M.Kaushik for Mr.S.Sridhar

For Respondent : Mr.M.Swaminathan Senior Standing Counsel and Ms.S.Premalatha 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 04.07.2014 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, ('the Tribunal' for brevity) in I.T.A.No.1243/Mds/2009 for the assessment year 2006-07. The above appeal has been admitted on 30.03.2015 on the following Substantial Questions of Law:

> "1.Whether the Tribunal is correct in law in approving the stand of the respondent in reckoning the transfer from the joint development agreement dated 28.04.2005 within the scope of the provisions of section 2(47) of the Act for the purpose of computing Long Term Capital Gains for taxation in the previous year relating to the assessment year under consideration (2006-07)?
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> 2.Whether the Tribunal is correct in law in approving the computation of Long Term Capital Gains in relation to the deemed transfer as per Section 2 (47) of the Act based on the adoption of notional value of the cost of construction to be met by the developer for the appellant in lieu of the undivided share of land without taking into account the provisions in Section 50C of the Act?”

2. We have heard Mr.M.Kaushik for Mr.S.Sridhar, learned counsel for the appellant/assessee and Mr.M.Swaminathan, learned Senior Standing Counsel and Ms.S.Premalatha, learned 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 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 had already been issued with Form-3

on 12.02.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Income Tax Officer,
Salary Ward - II(3),
Chennai - 600 034.

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

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.26515

Tax Case Appeal No.164 of 2015

GJ(CO)
CS/08/07/2021