IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM

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

TAX CASE APPEAL NO.1 OF 2013

P.Ramananda Kishore ... Appellant

v.

Income Tax Officer,
Salary Ward - V(1)
121, M.G. Road,
Chennai - 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "C" Bench, Chennai dated 27.07.2012 passed in M.P.No.84/Mds/2012 in I.T.A.No.1216/Mds/2009 for the Assessment Year 2006-07.

Appeal against the Order of the Commissioner of Income Tax (Appeals)-VI, No.121, Nungampakkam Hihg Road, Chennai-34 dated 15.04.2009 and made in ITA.No.121/2008-09 for the Assessment year 2006-2007 and against the order of the Income Tax officer, Salary Ward - V(1) Chennai dated 22.12.2008 and made in PAN.No.AHQPK2389H for the Assessment Year 2006-07.

For Appellant : Mr.R.Venkatnarayanan
for M/s.Subbaraya Aiyar

For Respondent : Mr.M.Swaminathan,
Senior Standing Counsel
Assisted by Ms.S.Premalatha,
Junior Standing Cousnel

J U D G M E N T
(Judgment was 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 27.07.2012 passed by the Income Tax

Appellate Tribunal, "C" Bench, Chennai ('the Tribunal' for brevity) in M.P.No.84/Mds/2012 in I.T.A.No.1216/Mds/2009 for the Assessment Year 2006-07.

2. The appeal was admitted on the following Substantial Questions of Law:

> "(i) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in dismissing the Miscellaneous Petition filed by the appellant for rectification of its order u/s. 254 of the Income Tax Act on the ground that there was no mistake apparent on record, ignoring the fact that the alternate ground of appeal raised by the appellate before the Commissioner of Income tax (Appeals) that even if the deposits are considered as unexplained only the peak credit ought to be brought to assessment was very mcuh part of the record?
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> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the appellant's Miscellaneous Petition for rectification u/s. 254 on the ground that the appellant had not filed any appeal against the order of the Commissioner of Income Tax (Appeals) or any petition under Rule 27 of the Income Tax Appellate Tribunal Rules, 1963, since the appellant's appeal had been substantially allowed by the Commissioner of Income Tax (Appeals) and therefore the appellant had no occasion appeal against the said order of the Commissioner of Income Tax (Appeals) before he Appellate tribunal?"

3. We have heard R.Venkatnarayanan, learned counsel for the appellant and Mr.M.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 17^{th} March 2020 and published in the Gazette of India on 17^{th} March 2020.

5. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Form-3 on 22.02.2021. Hence, the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Income Tax Officer,
Salary Ward - V(1)
121, M.G. Road, Chennai - 600 034.

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

3. The Commissioner of Income Tax (Appeals)VI,
No.121, Nungambakkam, High Road,
Chennai-34.

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.18742
+1cc to Mr.M.Swaminathan, Advocate, S.R.No.18940

T.C.A.No.1 of 2013

KV(CO)
CS/19/04/2021