IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM

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

Tax Case Appeal No.119 of 2013

S.N.Gowri
rep by Power of Attorney
Dr.S.R.Ravi ... Appellant
(cause title accepted vide order dated 31.01.2012 made in M.P.No.1 of 2019 in T.C.A.(SR).No.97223 of 2008, Rev.Appl.No.211 of 2011)

Vs.

The Income Tax Officer,
International Taxation - I,
Chennai - 600 034. ... Respondent

Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 27.06.2008 passed in I.T.A.No.2507/Mds/2007.

Against the Order of the Income Tax Appellate Tribunal 'C' Bench Chennai-90 in ITA.No.2507/MDS/2007 in the Assessment year 2004-2005.

Againt the order of the Commissioner of Income Tax Appeal XI Chennai dated 26.09.2007 Appeal No.CIT(A) XI/CHE/619/06-07 in the assessment year 2004-2005.

Against the order of the Income Tax Officer (International Taxation)I Chennai dated 16.03.2007 PAN AADPN2447D in the assessment year 2004-2005.

Against the order of the Income Tax Officer(Internation Taxation)I Chennai dated 27.12.2006 PAN GIR No.AADPN2447D in teh assessment year 2004-2005.

For Appellant : Mr.V.S.Jayakumar
For Respondent : Mr.Karthick Ranganathan,
Senior 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 27.06.2008 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No. 2507/Mds/2007 for the Assessment Year 2004-05.

2.The above appeal was admitted on 08.04.2013 on the following Substantial Question of Law for consideration:

> "1)Whether the Tribunal was right in holding that the exemption under Section 54F should be allowed for one flat only and not the entire constructed area given to the appellant by the builder for residential purposes in the same building?"

3. We have heard Mr.V.S.Jayakumar, learned counsel for the appellant/ assessee and Mr.Karthick Ranganathan, learned Senior Standing Counsel for the respondent/ Revenue.

4. It may not be necessary for this Court to decide the Substantial Question 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.We are informed by the learned counsel for the appellant/ assessee that the assessee has already filed the requisite Form - 1 on 26.12.2020 under Section 4 of the Act.

6. 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 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.

7. 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/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

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To

1.The Income Tax Appellate Tribunal, Madras "C" Bench
Chennai

2.The Income Tax Officer,
International Taxation - I,
Chennai - 600 034.

3.The Commissioner of Income Tax Appeals-XI
121 Mahatma Gandhi Road Nungambakkam
Chennai 600 034

+1 cc to Mr.Jayakumar Advocate sr11081

Tax Case Appeal No.119 of 2013

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