IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

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

TAX CASE APPEAL NO.136 OF 2013

Subramaniam Vadivel ...Appellant

Vs.

The Assistant Commissioner of Income Tax,
Business Circle VII ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 20.02.2013 passed in I.T.A.No.2118/Mds/2012 against the order of the Commissioner of Income Tax (Appeals) dated 17.08.2012 in ITA No.195/11-12 dated 17.08.2012 for the Assessment Year 2009-10 in GIR/PAN No.AACPV2373F against the Assessment order of the Assistant Commissioner of Income Tax, Chennai-34 dated 28.12.2011.

For Appellant : Mr.Suhrith Parthasarathy
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 20.02.2013 passed by the Income Tax Appellate Tribunal, Madras “B” Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.2118/Mds/2012 for the Assessment Year 2009-10. The above appeal was admitted on 21.03.2013 on the following Substantial Questions of Law for consideration:

> “1)Has not the Appellate Tribunal committed an error in law in failing to apply the principles epoused by a Division Bench of this Court in M.S.Srinivasa Naicker Vs. ITO reported in 292 ITR 481?

2) Whether the statement of the Village Administrative Officer by itself is relevant and sufficient to rebut the presumption created by revenue records indicating that the land in question was agricultural land? ”

2. We have heard Mr.Suhrith Parthasarathy, learned counsel for the appellant/ assessee and Mr.Karthick Ranganathan, learned Senior Standing Counsel for the respondent/ Revenue.

3. 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.

4. We are informed by the learned counsel for the appellant/assessee that the assessee has already filed the requisite Form - 1 on 29.05.2020 under Section 4 of the Act.

5. 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 Form 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.

6. 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 IV)

/true copy/

Sub Asst. Registrar

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To

1.The Registrar,Income Tax Appellate Tribunal, Madras "B" Bench
2.The Commissioner of Income Tax(A)-IX,Chennai-34.
3.The Assistant Commissioner of Income Tax,
Business Circle VII,Chennai-34.

Copy to
The Sub Assistant Registrar,
Appeal Examiner Main Section,
High Court, Madras-104/

+1cc to M/s.J.Ramakrishnan, Advocate, Sr.No.6196

Tax Case Appeal No.136 of 2013

PPA(CO)
KKV/15/03/2021