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 Nos.169 & 170 of 2016

R.Swarna ... Appellant/Appellant in both TCAs

Vs.

The Assistant Commissioner of Income Tax,
Central Circle I(3),
No.108, Mahatma Gandhi Salai,
Nungambakkam,
Chennai - 600 034. ... Respondent/Respondent in both TCAs

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 30.04.2009 passed in I.T.A.Nos.2371/Mds/ 2007 for the Assessment year 2004-2005 and 2372/Mds/2007 for the Assessment Year 2005-2006.
and this appeal preferred against the commissioner of Income Tax(Appeals-I) Chennai-34, order dated 10/08/2007 made in ITA No.93/06-07 for the Assessment year 2004-2005 CTCA No.169/16 and ITA.94/06-07 for the Assessment year 2005-2006(TCA 170/2016) and preferred against the Assistant Commissioner of Income Tax, Central Circle(3), Chennai-34, Order dated 13.11.2006, made in PA/GI.NO.ANIPS.3560L for the Assessment Year 2004-2005 (TCA.169/16) and 2005-2006(TCA.170/2016)

For Appellant : Mr.N.Devanathan
For Respondent : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

C O M M O N J U D G M E N T
(Delivered by M. DURAISWAMY, J)

These appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 30.04.2009 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.Nos.2371/Mds/2007 and 2372/Mds/2007 for the Assessment Years 2004-05 and 2005-06. The above appeals were admitted on 29.03.2016 on the following Substantial Questions of Law for consideration:

> "1) Whether on the facts and in the circumstances of the case, the order of the Income Tax Appellate Tribunal is not perverse in law?
>
> 2) Whether on the facts and in the circumstances of the case, the Tribunal was right in confirming the assumption of jurisdiction under Section 153-C of the Income Tax Act?
>
> 3) Whether on the facts and having regard to the provisions of Section 145 of the Income Tax Act, under which the cash system of accounting was followed by the appellant, the Tribunal was right in confirming the addition in regard to interest income?"

2. We have heard Mr.N.Devanathan, learned counsel for the appellant/assessee and Mr.T.R.Senthil Kumar, learned Senior 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 has already filed the requisite Forms - 1 & 2 on 25.12.2020, in both the appeals, 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 these appeals 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 Appeals stand disposed of on the ground that the assessee has already filed the requisite Forms - 1 & 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 the appeals 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 appeals 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 Appeals stand disposed of with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner of Income Tax (Appeals-I),
Chennai-34.

3.The Assistant Commissioner of Income Tax,
Central Circle I(3),
No.108, Mahatma Gandhi Salai,
Nungambakkam, Chennai - 600 034.

+1 cc to M/s.T.R.Senthilkumar, Advocate Sr.No. 6009.

Tax Case Appeal Nos.169 & 170 of 2016

KJ(CO)
RMP(26/02/021)