IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM

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

Tax Case Appeal Nos.284 to 288 of 2016

A.Sundaram ... Appellant in all TCAs

Vs.

The Commissioner Income Tax,
Salem. ... Respondent in all TCAs

PRAYER: Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 15.05.2015 passed in I.T.A.Nos.102 to 106/Mds/2015 for the assessment year 2001-02, 2002-03, 2003-04, 2004-05 and 2005-06.

Against the Commissioenr of Income Tax (Appeals) Salem-7 dated 31.10.2014 in ITA.No. 162/2007-08, ITA.No. 163/2007-08, ITA.No.164/2007-08, ITA.No.165/2007-08, ITA.No. 166 of 2007-08, for the Assessment Year 2001-02, 2002-03, 2003-04, 2004-05, 2005-06 respectively against the Assistant Commissioner of Income Tax, Circle III, Salem -7, dated 31.12.2007 GIR.No/PAN AIJPS2986P/3DPSO 149 for the Assessment Year 2001-02, 2002-03, 2003-04, 2004-05, 2005-06 respectively.

For Appellant : Mr.T.Vasudevan
(in all TCAs)

For Respondent : Mrs.V.Pushpa,
(in all TCAs) Senior Standing Counsel

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

The appeals filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), are directed against the order dated 15.05.2015 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.Nos.102 to 106/Mds/2015 for the assessment year 2001-02, 2002-03, 2003-04, 2004-05 and 2005-06.

2.The above appeals were admitted on the following Substantial Questions of Law for consideration:

i)Whether on the facts and in the

circumstances of the case, the Appellate Tribunal was justified in confirming the addition of credits in current account of LVB in the status of 'individual' as against the claim of the assessee for assessment in the status of HUF based on the registered partition effected in 1954?

2)Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in confirming the addition without giving any finding on the evidence produced for the textile business carried on by HUF of Arthanari as early as in 1971?

3)Whether on the facts and in the circumstances of the case and in the light of the Supreme Court decision in 73 ITR 539, the Appellate Tribunal ought to have deleted the addition of bank balances by holding that it was assessable only in the hands of HUF of Arthanari?

4)Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in not deleting the addition considering that the balance in current account of LVB had been returned in the HUF assessment of the assessee and a total tax of Rs.7,25,212/- paid therein resulting in double taxation of the same amount which is against the canons of taxation laws?”

3. We have heard Mr.T.Vasudevan, learned counsel for the appellant/assessee and Mrs.V.Pushpa, learned Senior Standing Counsel for the respondent/Revenue.

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 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 been issued with Form – 3 on 16.12.2020 in all the above appeals.

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 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 Appeal is dismissed on the ground that the assessee has already been

issued with Form - 3 in all the above appeals and the Department shall process the applications 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 these appeals in the event the ultimate decision to be taken on the declaration 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.

7. With this observation, the Tax Case Appeals are dismissed with the aforementioned liberty and consequently, the Substantial Questions of Law are left open. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Commissioner Income Tax,
  Salem.

3.The Assistant Commissioner of Income Tax,
  Circle III, Salem.

4.The Commissioner of Income Tax (Appeals),
  Salem - 7.

Copy To

The Assistant Registrar,
Appeal Examiner Main Section,
High Court, Madras 104.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No. 26256

JP(CO)
GN(05/07/2021)