IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal Nos. 299 and 301 of 2016
and
C.M.P. Nos. 6437 and 6439 of 2016

Shri L.K.Sudhish
PAN : AAWPS0074J
No.97, Second Cross Street,
Venkatesh Nagar,
Virugambakkam
Chennai-600 092. ...Appellant in both Tax Case Appeals

Vs.

The Assistant Commissioner of Income Tax
Central Circle -I(2) Chennai-34.
...Respondent in both Tax Case Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "B" Bench Chennai, dated 16.10.2015 made in I.T.A.Nos.694/Mds/2013 and 696/Mds/2013 for the Assessment Years 2004-05 and 2006-07 as against the order dated 31.01.2013 by the Commissioner of Income Tax (Appeal-I) in I.T.A. No. 355 to 361/2008-2009 as against the order dated 31.12.2008 for the Assessment year 2004-2005, 2006-2007 in PAN/GIR No. AAWPS00747 by the Assistant Commissioner of Income Tax, Chennai.

For Appellant: Mr. C.V.Salin Nisha
in both Tax Case Appeals

For Respondent :Mr. T.R.Senthil Kumar
Standing Counsel in both Tax Case Appeal

COMMON JUDGMENT
(Judgment was delivered by R. MAHADEVAN, J.)

These Tax Case Appeals have been filed by the Assessee, challenging the order dated 16.10.2015 made in I.T.A.Nos.694/Mds/2013 and 696/Mds/2013 for the respective Assessment Years 2004-05 and 2006-07, by raising the following substantial questions of law:-

"1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in applying the case of the revenue, confirming the 2.5% disallowances on the Appellant's appeal where the Grounds of Appeal and relief sought have appreciable differences?

2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in conforming disallowance which was not out of any materials seized at the time of the search and that the original assessment under section 143 was completed.

3. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in not considering that the Assessing Offcer assumed extra jurisdictional powers in completing the assessment and made the disallowances and the resultant interests.

4. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in conforming disallowance where the same is already disallowed and on items that are not subject to deduction in the circumstance.

5. Whether on the facts and in the circumstances of the case, the ITAT is right in law in their interpretation on the calculation of interest under Sections 234A, 234B and 234C read with Section 153A of the Income Tax Act 1961, and its effect.

6. Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in placing reliance on the facts and cases cited above in disallowing the appeal of the Appellant?"

2.When the matters were taken up for consideration, the learned counsel appearing for the appellant / assessee submitted that subsequent to the filing of these tax case appeals, the assessee has opted the scheme framed under the Direct Tax Vivad Se Vishwas Act, 2020 and hence, the appeals may be dismissed as withdrawn, so as to enable them to pursue the same before the authority concerned. The learned counsel has also filed memos dated 10.11.2021 to that effect.

3.In view of the aforesaid submissions made by the learned counsel for the appellant / assessee, which has not been seriously disputed on the side of the respondent, this court is of the opinion that nothing survives for adjudication. Hence, recording the submissions so made, these tax case appeals stand disposed of, with a direction to the authority concerned to process the applications in accordance with the Act and communicate the decision to the assessee at the earliest. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya
To

1.The Income Tax Appellate Tribunal, Chennai 'B' Bench

2.The Assistant Commissioner of Income Tax
Central Circle -I(2) Chennai-34

3. The Commissioner of Income Tax
Appeal-I, 46 Mahathma Gandhi Road
Nungambakkam, Chennai 34.

+1 CC to M/s.K.G. Usharani, Advocate sr 58381

T.C.A. Nos. 299 and 301 of 2016

SVI(CO)
SP(27/12/2021)