IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.503 of 2018

N.Easwaran ...Appellant/Respondent

Vs

The Commissioner of Income Tax,
Coimbatore. ...Respondent/Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 28.12.2017 made in ITA.No.2154/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench, for the assessment year 2013-14. against the order passed by the Commissioner of Income Tax (Appeals)-3 Coimbatore, made in IT Appeal No.383/15-16, dated 29/04/2016, and against the order passed by the Income Tax Officer, ward 2(2), Tiruppur, made in PAN/GIR No.AAGPE 4276 L, dated 24.03.2016 for the assessment year 2013-2014.

For Appellant: Mr.R.Kumar

For Respondent:Mr.T.R.Senthil Kumar
Senior Standing Counsel

JUDGMENT
(Delivered by T.S.Sivagnanam,J)

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 28.12.2017 made in ITA.No.2154/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench ('the Tribunal' for brevity) for the assessment year 2013-14.

2. The appeal was admitted on 31.08.2018 on the following substantial questions of law:

"1. Whether the Appellate Tribunal is right in law in not following the binding judgment of the jurisdictional Madras High Court in CIT vs. S.Khader Khan Son [(2008) 300 ITR 157 (Mad)] affirmed by the Supreme Court by order in CIT vs. S.Khader Khan Son [(2013) 352 ITR 480 (SC)] and relying on judgments of other High Courts in a manner contrary to judicial propriety and discipline?

2. Whether the Appellate Tribunal is right in law in acting on the retracted confessional statement of the appellant, uncorroborated by tangible material, which has no evidentiary value and is also against the CBDT instructions on the subject?
3. Whether the Appellate Tribunal is right in law in modifying the fair and reasoned order of the Commissioner (Appeals) fixing the income with reference to comparable cases and resorting substantially the assessing officers order adopting the exaggerated rate of profit?"

3. We have heard Mr.R.Kumar, learned counsel for the appellant-assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel appearing for the respondent-Revenue.

4. The learned counsel for the appellant-assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and Form No.3 was issued on 23.12.2020.

5. In the light of the subsequent event, the assessee is given liberty to restore this appeal in the event the ultimate decision 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 appeal and on such request made by the assessee by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1. The Income Tax Appellate Tribunal,
'A' Bench, Chennai.

2. The Commissioner of Income Tax,
Coimbatore.

3. The Commissioner of Income Tax (Appeals)-3,
Coimbatore.

4. The Income Tax Officer, Ward - 2 (2),
Tiruppur.

5. The Section Officer,
A.E.Section, High Court, Madras.

6. The Section Officer,
Judicial Section, High Court, Madras.

TCA.No.503 of 2018

BS(CO)
RG.17.04.2021