IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.450 of 2020

M/s.Haridas HUF,
No.11, Radha Krishnan Street,
T.Nagar, Chennai - 600017. ...Appellant

Vs

Income Tax Officer,
Non-Corporate Ward-1(3),
121, Mahatma Gandhi Salai,
Chennai - 600034. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 29.11.2019 made in ITA.No.1570/Chny/2019 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment year 2015-16 against the order of the Commissioner of Income Tax (Appeals)-2 Chennai in I.T.A. No.62/2017-2018 dated 28.03.2019 for the assessment year 2015-2016 against the order under section 143(3) of the ITA dated 08.12.2017 for the Assessment year 2015-2016 passed by ITO New-1 (3) Chennai in PAN AADHH9168M on the file of Income Tax Officer (I/C) Non Corporate Ward 1(3) Chennai 34.

For Appellant :Mr.N.V.Balaji
For Respondent:Mrs.R.Hemalatha
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 29.11.2019 made in ITA.No.1570/Chny/2019 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench ('the Tribunal' for brevity) for the assessment year 2015-16.

2. The assessee has raised the following substantial questions of law for consideration:

> "1. Whether Income Tax Appellate Tribunal is right in upholding the order of lower authorities denying deduction in respect of part of the land purchased by the appellant?

2. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in remitting the case back to the file of the assessing officer, requiring him to examine afresh, on the issue whether the appellant was eligible for deduction under section 54 of the Act?

3.Is the finding of the Tribunal that Plot No.31 is presently vacant and cannot be considered as indivisible part of the building constructed in plot 32, nor it is necessary for the enjoyment of the property, not perverse?"

3. We have heard Mr.N.V.Balaji, learned counsel for the appellant and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the respondent/Revenue.

4. The learned counsel appearing for the appellant/assessee submits that the appellant/assessee has already filed the declaration/undertaking under the Vivad Se Vishwas Scheme on 31.12.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this appeal 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 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 and consequently, the substantial questions of law framed are left open. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Income Tax Appellate Tribunal,
   Madras 'C' Bench.

2. Income Tax Officer,
   Non-Corporate Ward-1(3),
   121, Mahatma Gandhi Salai,
   Chennai - 600034.

3.The Commissioner of Income Tax (Appeals)-2
  216, Aayakar Bhavan, Main Building II Floor
  121 Mahathma Gandhi Road
  Nungambakkam, Chennai 34.

+1 CC to Mr.T. Ravikumar, Advocate sr 427.

TCA.No.450 of 2020

RGN(CO)
SP(23/02/2021)