IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

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

Tax Case Appeal No.1080 of 2014

Commissioner of Income Tax,
Central Circle,
Chennai. ... Appellant

Vs.

Shri S. Duraipandi &
Shri S.Thalavaipandian (AOP)
29/5, AMC Centre,
Viswanathapuram Main Road,
Kodambakkam,
Chennai - 600 024. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 29.04.2011 passed in I.T.A.No.1751/Mds/2010, against the order of the Commissioner of Income tax(A)-II, Chennai-34 in ITA.No.63/09-10 dated 02.07.2010 for the Assessment year 2008-09 against the Assessment order of the Assistant Commissioner of Income Tax, Central Circle III(4), Chennai, dated 31.12.2009.

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

For Respondent : Mr.R.Sivaraman

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

The above appeal filed by the Department under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 29.04.2011 passed by the Income Tax Appellate Tribunal, Madras "C" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1751/Mds/2010 for the Assessment Year 2008-09. The above appeal was admitted on the following substantial questions of law :

"1.Whether on the facts and circumstances of the case, the Tribunal was correct in presuming that an addition of Rs.5.29 Crores is to be done in the case of S.Duraipandi (individual) and not as AOP in spite of the fact that the assessee has admitted the same and as per the documents seized?

2.Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition of Rs.5.5 lakhs being the money paid by the assessee to Jaya Krishnamurthy in respect of the land deal contrary to Section 68 of the Income Tax Act?"

2. We have heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/ Revenue and Mr.R.Sivaraman, learned Counsel for the respondent/assessee.

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 respondent/assessee that the assessee has already filed the requisite Forms 1 & 2 on 08.03.2021 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 this appeal 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 stands 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 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 Division Bench for orders.

6. With this observation, the Tax Case Appeal stands disposed of with the aforementioned liberty and consequently, the substantial questions of law are left open. No costs.

Sd/-
Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
The Income Tax Appellate Tribunal, Madras “C” Bench

2.The Commissioner of Income Tax,
Central Circle,
Chennai.

3.The Assistant Commissioner of Income Tax,
Central Circle-III(4),
Chennai.

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PPA(CO)
CB(06/08/2021)