IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY

AND

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

Tax Case Appeal No.1059 of 2019

Devyani Dilip Patel ...Appellant

Vs.

The Income Tax Officer,
Non-Corporate Ward 3(2),
Chennai - 34. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, dated 21.05.2019 passed in I.T.A.No.3198/Mds/2017.

1) Appeal against the order of the Commissioner of Income Tax (Appeals)-4, Room No. 229, 2nd Floor, Main Building, 121 M.G. Road, Chennai 34 made in I.T.A.No.300/2016-2017/A.Y 2011-2012/CIT(A)-4 dated 29.09.2017 Assessment year 2011-2012.

2)Appeal against the order of the Deputy Commissioner of Income Tax, Corporate Circle 5(2), 4th Floor, Aayakarbhavan, 121 M.G. Road, Nungambakkam, Chennai 34 made in PAN.AALPP6624L order dated 22.02.2017 Assessment year 2011-2012.

3) Appeal against the order of the Commissioner of Income Tax (Appeals)-4, 121, M.G. Road, Chennai 34 made in I.T.A.No.26/2014-2015/2011-2012/CIT(A)-4 dated 15.10.2015, Assessment year 2011-2012.

For Appellant : Mr.T.C.A.Ramanujam
For Respondent : Mr.T.Ravi Kumar,
Senior Standing Counsel

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

The appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 21.05.2019 passed by the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.3198/Mds/2017 for the Assessment Year 2011- 12.

2.The above appeal was admitted on the following Substantial Questions of Law for consideration:

> "1)Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was justified in dismissing the appeal when the directions of the Tribunal in its earlier order have not been followed?
>
> 2)Whether in the facts and circumstances of the case, Income Tax Appellate Tribunal was justified in dismissing the matter when the sole basis of the assessment is the uncorroborated statement of the President of the Society?
>
> 3)Whether in the facts and circumstances of the case, Income Tax Appellate Tribunal was justified in ignoring the observations of the Commissioner of Income Tax (Appeals)?"

3. We have heard Mr.T.C.A.Ramanujam, learned counsel for the appellant/assessee and Mr.T.Ravi Kumar, 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 with Reference No.862945970221220.

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 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 is dismissed on the ground that the assessee has already been issued with Form - 3 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 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.

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

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2.The Income Tax Officer,
Non-Corporate Ward 3(2),
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)-4
Room No. 229, 2nd Floor, Main Building
121, M.G. Road, Nungambakkam, Chennai 34.

4. The Deputy Commissioner of Income Tax
Corporate Circle 5(2) 4th Floor
Aayakarbhavan, 121 M.G. Road
Nungambakkam, Chennai 34.

5. The Assistant Registrar
A.E. Section
High Court, Madras 104.

6. The Section Officer
Judicial Section
High Court, Madras 104.

+1 CC to Mr.T. Ravi Kumar, Advocate sr 24205.

Tax Case Appeal No.1059 of 2019

SRII(CO)
SP(18/06/2021)