IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

TAX CASE APPEAL NO.229 OF 2017

M/s.M.Arunachalam and Company,
No.117/79, Lloyds Road,
Royapettah,
Chennai - 600 014.
PAN: AAAFM6851F ... Appellant

Versus

The Joint/Assistant Commissioner
of Income Tax,
Business Range - VIII,
Chennai - 600 006. ... Respondent

PRAYER:-

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "A" Bench, dated 07.04.2016 passed in I.T.A.No.1353/Mds/2015 for the Assessment Year 2010-2011.

Against the Order of Commissioner of Income Tax, Appeals - 13, Nungambakkam, Chennai - 34, dated 27/03/2015 in ITA:298 CIT(A)-13/2013-14 and arising out of the Assessment Order of Commissioner of Income Tax, Business Circle - VIII, Chennai, dated 01/03/2013 in PAN/GIR No: AAAFM6851F.

For Appellant : Mr.R.Sridhar

For Respondent : M/s.V.Pushpa
Junior Standing Counsel

J U D G M E N T

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

This tax case appeal has been filed by the appellant/ assessee, challenging the order dated 07.04.2016 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No.1353/Mds/2015, relating to the assessment year 2010-11, by raising the following substantial questions of law:-

> " 1. Whether the Appellate Tribunal is correct in law in confirming the disallowance of Rs.39,44,719/- for want of TDS on the application of section 40(a)(ia) of the Act despite the applicability of the second proviso as well as in view of the fact of actual payment of such sum in the previous year relating to the Assessment year under consideration?
>
> 2. Whether the Appellate Tribunal is correct in law in interpreting the provisions of section 40(a)(ia) of the Act despite of cleavage of opinion as well as the availability of the decisions of the Co-ordinate Bench rendered in favour of the tax payer?
>
> 3. Whether the Appellate Tribunal is correct in law in recording the findings on the applicability of the TDS provisions to the payments made which were subjected to the disallowance under section 40(a)(ia) of the Act which findings were recorded without the examination of the facts?
>
> 4. Whether the Appellate Tribunal is correct in confirming the assessment of sundry creditors balances aggregating to Rs.17,95,370/- on the presumption of cessation of liability despite the fact of such cessation as well as offer of such sum in the subsequent Assessment Years? "

2. When the matter was taken up for consideration, the learned counsel appearing for the appellant/assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 21.04.2021 by the Income Tax Department. The learned counsel has also filed a memo to that effect.

3. The aforesaid submission made by the learned counsel for the appellant/assessee has also been fairly conceded by the learned senior standing counsel appearing for the respondent/ Revenue.

4. This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matter connected therewith or incidental thereto, which came into force with effect from 17.03.2020; and the declarations submitted by the assessee were also accepted and Form 3 was also issued to them by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial questions of law arisen in this tax case appeal.

5. Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of, directing the department to process the application at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
Chennai "A" Bench.

2. The Joint/Assistant Commissioner of Income Tax,
Business Range VIII,
Chennai - 600 006.

3. The Commissioner of Income Tax,
Appeal - XIII, Chennai - 600 034.

4. The Commissioner of Income Tax,
Business Circle VIII, Coimbatore.

TAX CASE APPEAL NO.229 OF 2017

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PBS/28/12/2021