IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

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

Tax Case Appeal No.463 of 2017

Shri S.Elango
Sea Castle, No.46/20,
North Crescent Road,
T.Nagar,
Chennai - 600 017. ...Appellant/Appellant

Vs.

The Deputy Commissioner of Income Tax,
Central Circle-III (1),
Chennai. ...Respondent/Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "D" Bench, dated 23.11.2016 passed in I.T.A.No.2128/Mds/2013 for the Assessment year 2006-2007 against the order of the Commissioner of Income Tax (A)(C)-II Chennai 34 dated 30.09.2013 made in I.T.A. No. 301 and 302/2013-2014 for the Assessment year 2006-2007 & 2007-2008 against the order of the Assistant Commissioner of Income Tax Central Circle III(1) Chennai dated 30.12.2008 made in PAN/GIR No. AACPE6397G for the Assessment year 2006-2007.

For Appellant : Mr.M.Kaushik
for Mr.S.Sridhar

For Respondent : Mr.T.R.Senthil Kumar
Senior Standing Counsel
and Mrs.K.G.Usha Rani
Standing Counsel

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

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 23.11.2016 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, ('the Tribunal' for

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brevity) in I.T.A.No.2128/Mds/2013 for the assessment year 2006-07. The appellant/assessee has raised the following Substantial Questions of Law in the above appeal:

> "1.Whether the Appellate Tribunal is correct in law in sustaining the levy of penalty u/s.271(1)(c) of the Act despite the surrender of additional income on which the penalty was imposed in the course of the search as reflected in the recording of sworn statement u/s.132(4) of the Act?
>
> 2.Whether the Appellate Tribunal is correct in law in sustaining the levy of penalty u/s.271(1)(c) of the Act on the interpretation of proviso (2) to explanation (5) below the section 271(1)(c) of the Act which according to the appellant would defeat the purposive legislation?"

2. We have heard Mr.M.Kaushik for Mr.S.Sridhar, learned counsel for the appellant/assessee and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel and Mrs.K.G.Usha Rani, learned Standing Counsel for the respondent/Revenue.

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 appellant/ assessee that the assessee had already been issued with Form-3 on 11.02.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

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2.The Deputy Commissioner of Income Tax,
Central Circle-III (1),
Chennai.

3. The Commissioner of Income Tax (A)(C)-II
Chennai 34.

4. The Assistant Commissioner of Income Tax
Central Circle III(1)
Chennai

+1 CC to Mr.T.R. Senthil Kumar, Advocate sr 26518.



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