IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V. THAMILSELVI

Tax Case Appeal No.495 of 2017

G. Muralidharan ... Appellant

v.

Commissioner of Income Tax (Pondicherry),
Chennai. ... 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, Chennai, dated 27.04.2016 passed in I.T.A.No.1197/Mds/2015, against the order of the Commissioner of Income Tax (Appeal) Puducherry dated 13.03.2015 for the Assessment year 2008-2009 and 2009-2010, in ITA No.313/CIT (A)-PDY/13-14.

For Appellant : Mr. N.V. Balaji

For Respondent : Mr.T.R. Senthil Kumar
Standing Counsel

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 27.04.2016 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No.1197/Mds/2015. for the Assessment Year 2008-09. The assessee has raised the following Substantial Question of Law for consideration:

> " Whether in fact and the circumstances of the case, the tribunal was right in holding that penalty levied by the Assessing Officer under section 271(1)(c) of the the Income Tax Act, is valid. ?"

2.. We have heard Mr. N.V. Balaji, learned counsel for the appellant/assessee and Mr. T.R. Senthil Kumar, learned Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Question 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 has already filed the declaration on 23.10.2020 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 a declaration 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(CCC)

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Commissioner of Income Tax (Pondicherry),
Chennai.

2.The Income Tax Appellate Tribunal,
Madras 'C' Bench, Chennai.

3.The Commissioner of Income Tax (Appeals)
Puducherry.

+1cc to Mr.N.V.Balaji, Advocate SR.1181

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srg 01/02/2021