IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No. 537 of 2017

Shri R.Panneerselvam (Individual)
No.43, Sarangapani Street
T.Nagar, Chennai – 600 017.
PAN : AAGPP5343K ... Appellant

Vs.

The Assistant Commissioner of Income Tax
Business Circle II
Chennai-600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "D" Bench Chennai, dated 01.08.2016 passed in I.T.A.No.1077/Mds/2014 for the Assessment Year 2004-05.

Against the Appellate order of the Commissioner of Income Tax, Appeals Central(-I), Chennai – 600 034 and made in I.T.A.No.172/2013, dated 30.01.2014 for the Assessment Year 2004-05; and against the Assessment order of the Assistant Commissioner of Income Tax, Business Circle – II, Chennai, dated 30.12.2011 PAN.No.AAGPP5343K for the Assessment Year 2004-05.

For Appellant : Mr. S.Sridhar

For Respondent : Mr. T.Ravikumar

J U D G M E N T

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

This Tax Case Appeal has been filed by the Assessee, challenging the order dated 01.08.2016 passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai ('the Tribunal', for brevity) relating to Assessment Year 2004-05, by raising the following substantial questions of law:-

"1.Whether the Appellate Tribunal is correct in law to sustain the addition partly on the presumption of sales suppression establishing perversity in their findings consequent to the misconstruction of the details scrutinized by the Respondent while overlooking the trade practice?

2.Whether the Appellate Tribunal is correct in law in not considering the grounds raised challenging the validity of the re-assessment based on the survey results despite the fact of the survey results related to the Assessment year 2008-09?

3.Whether the Appellate Tribunal is correct in sustaining the addition made by extrapolating the survey results to the earlier Assessment year which happened to be the Assessment Year under consideration even though there were no reasons for presumption of such practice of suppression of sales and not backed by any materials unearthed in the survey?"

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 (1) of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 27.10.2021, 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 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 in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

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

2. The Assistant Commissioner of Income Tax
   Business Circle II,
   Chennai-600 034.

3. The Commissioner of Income Tax,
   Appeals (Central)-I
   Chennai.

+1cc to Mr. S.Sridhar, Advocate, S.R.No.58745
+1cc to Mr. T.Ravikumar, Advocate, S.R.No.58316

T.C.A.No. 537 of 2017

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NSK 05/01/2022