IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM

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

Tax Case Appeal No.815 of 2018

Shri N Ragothaman
Prop.Ravi Jewellery
No.1, Prakasham Road
T.Nagar, Chennai - 600 017
PAN: AAFPR6790K .. Appellant

Versus

The Income Tax Officer
Non Corporate Ward - 2(3)
Chennai .. 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 03.04.2018 passed in I.T.A.Nos. 220/Chny/2017 against the order of Commissioner of Income Tax (Appeals)-2, Chennai-34, dated 31.10.2016 in ITA.No.242/CIT(A)-2/2014-15, and arising out of the Assessment order of Income Tax Officer, Non Corporate Ward 2(3), Chennai, dated 24.02.2015 in PAN/GIR.No. AAFPR6790K.

For Appellant : Mr.S. Sridhar

For Respondent : Mr.J. Narayansamy
Senior 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 03.04.2018 passed by the Income Tax Appellate Tribunal, "D" Bench, Chennai ('the Tribunal' for brevity) in I.T.A.No. 220/Chny/2017 for the assessment year 2012-13.

2.The above appeal was admitted on 16.11.2018 on the following substantial questions of law:

"1.Whether the provisions of Section 139(5) of the Act permit the filing of the revised return of income within the stipulated time prescribed in relation thereto for rectifying the mistakes, omissions and wrong statement in the original return of income filed u/s. 139(1) of the Act?

2.Whether the Appellate Tribunal is correct in rejecting the valid revised return of income within the scope of section 139(5) of the Act while the said valid revised return of income effaced/replaced the original return of income?

3.Whether the Appellate Tribunal is justified in misreading the sworn statement of the Appellant recorded at the time of survey for making the entire sales quantified in the light of the deficit stock arrived at based on the purchase/stock register while the profit element embedded in such sales would stand the test of the principles of real income theory?"

3. When the matter was taken into consideration, the learned counsel appearing for the appellant/assessee submitted that durting 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 19.02.2021 by the Income Tax Department. The learned counsel has also filed a memo dated 21.10.2021 to that effect.

4. 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.

5.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 unncessary for this court to decide the substantial question of law arisen in this tax case appeal.

6.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 IX)

//True Copy//

Sub Assistant Registrar

dhk

To

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

2. The Income Tax Officer
Non Corporate Ward – 2(3)
Chennai – 34.

3. The Commissioner of Income Tax (Appeals)-2,
Chennai – 600 034.

4. The Assistant Registrar,
Income Tax Appellate Tribunal,
III Floor, Shastri Bhavan,
Besant Nagar, Chennai – 600 090.

Tax Case Appeal No.815 of 2018

PL[co]
NSK 25/01/2022