IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal No.827 of 2018

Mrs.Vidya Reddy,
Represented by Power of Attorney
holder, Mr.V.K.Jhaver,
18/19/Bawa Road,
Alwarpet, Chennai - 600 018. ...Appellant

Vs

The Income Tax Officer,
International Taxation Ward 1(2),
121, Uttmar Gandhi Road,
Nungambakkam,
Chennai - 600 006. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 15.05.2018 made in ITA.No.2016/Chny/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench for the assessment year 2014-15 and Appeal against the order dated 05/06/2017 made in PAN No.AAQPJ2404D on the file of the ITA Nos.105/CIT (A)-16/14-15 and against the order dated 28/12/2016 ITO(International Taxation)-ward 1(2)chennai for the assessment year 2014-15.

For Appellant: Mr.V.S.Jayakumar

For Respondent: Mr.R.Karthik Ranganathan, SSC



JUDGMENT
(Delivered by T.S.Sivagnanam,J)

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 15.05.2018 made in ITA.No.2016/Chny/2017 on the file of the Income Tax Appellate Tribunal, Chennai 'D' Bench ('the Tribunal' for brevity) for the assessment year 2014-15.

2. The appeal was admitted on 23.11.2019 on the following substantial questions of law:

> "1. Whether the Tribunal was right in holding that the amount of Rs.45,79,550/- is not exempt under Sec 10(38) of the Income Tax Act, 1961?
>
> 2. Whether the Tribunal erred on holding that the provisions of Sec 68 are attracted in the instant case when the assessee has fully discharged the onus of proof?
>
> 3. Whether the Tribunal is not correct in not adhering to the judicial discipline by ignoring orders of the Co-ordinate Benches of Kolkata benches and also the Madras benches where the identical transaction has been accepted and in some cases remanded back to the assessing officer for further investigation?
>
> 4. Whether the Tribunal was right in not exercising its discretion to restore the matter to the files of the lower authorities to give opportunity of being heard in respect of the material gathered behind the back of the assessee which have no live nexus or casual connection with the appellant?"

3. We have heard Mr.V.S.Jayakumar, learned counsel for the appellant-assessee and Mr.R.Karthik Ranganathan, learned Senior Standing Counsel appearing for the respondent-Revenue.

4. The learned counsel for the appellant-assessee submits that the assessee has already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. 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 appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty and consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To
1. The Income Tax Appellate Tribunal,
'D' Bench, Chennai.

2. The Commissioner of Income Tax(Appeals)-16,
Chennai.

3. The Income Tax Officer,
International Taxation Ward 1(2),
121, Uttmar Gandhi Road,
Nungambakkam,
Chennai - 600 006.

+1cc to Mr.VS.JAYAKUMAR, ADVOCATE, SR.NO. 20508

TCA.No.827 of 2018

AJB(CO)
KKN 30.04.2021