**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated: 14.02.2022

CORAM

**THE HONOURABLE TMT. JUSTICE PUSHPA SATHYANARAYANA**
**and**
**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**Review Applications.11, 12, 13, 14, 16 and 17 of 2022**
**against**
**T.C.A.Nos.848, 853, 839, 852, 842 and 854 of 2018**

M/s Royal Sundaram General Insurance Co.Limited,
"Sundaram Towers"
45 and 46, Whites Road,
Chennai – 600 002,
PAN AABBCR7106G.

... Applicant/Appellant/Assessee in Rev.Appl 11 of 2022

Vs

The Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
Chennai – 600 101.

... Respondent in Rev.Appl 11 of 2022

**Prayer in Review Application 11 of 2022:** Review Application filed under Order XLVII Rules 1 r/w section 114 C.P.C., to review the order passed in T.C.A.Nos.848 of 2018 dated 18.11.2021.

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|---|---|---|
| For Petitioners | : | Mr.R.Sandeep Bagmar |
| For Respondent ín all TCAs | : | Mr.M.Swaminathan<br>Senior Standing Counsel<br>assisted by<br>Ms.V.Pushpa, Junior Standing Counsel |

**COMMON ORDER**

(Order of the Court was made by MOHAMMED SHAFFIQ, J.)

The petitioners have filed these applications seeking review of the Judgment dated 18.11.2021 in T.C.A.Nos. 839, 842, 848, 852, 853 and 854 of 2018 on the premise that the same suffers from errors apparent on the face of the record with regard to the substantial questions of laws (B) and (C) raised and considered in the above Tax Case Appeal:

> B. *Whether the deductions under Section 14A of the Income Tax Act, 1961 stands excluded while computing income of an Insurance Company, in view of Section 44 of the Income Tax Act, 1961?*
>
> C. *Whether the profits on sale of investments is exempted under Income Tax Act, 1961?* :

2. It is submitted that with regard to question B, this Court, after referring to the Judgment of the Delhi High Court in ***Principal Commissioner of Income Tax LTU, New Delhi Vs Oriental Insurance***

***Company Ltd*** *reported in* ***[2020] 118 taxmann.com 248 (Delhi)*** and extracting the relevant portions of the said Judgment which would show that the question of law stood decided against the Revenue at Para No.5 of the order dated 18.11.2021 concluded that the question of law was decided against the assessee. The relevant portion of which reads as under:

> **5.** *It is thus clear that Section 14A of Income Tax Act, 1961 stands excluded while computing the Income Tax of an Insurance Company, in view of the non-obstante clause contained in Section 44 of Income Tax Act, 1961, the questions of law stand decided against the assessee.*

3. It was thus submitted by the learned counsel for the appellant that the Judgment suffers from error apparent on the face of the record. Mr.M.Swaminatham, learned Senior Standing Counsel appearing for the respondents would also submit that the Judgment of the *Delhi High Court in the matter of* ***Principal Commissioner of Income Tax LTU, New Delhi Vs Oriental Insurance Company Ltd*** *reported in* ***[2020] 118 taxmann.com 248 (Delhi),*** which has been referred to by this Court has decided the question of law in favour of the assessee. On going through the Judgment dated 18.11.2021, we find that Para No.5 ought to have read "the question of law stands decided against the Revenue". Instead by mistake it reads "the

question of law stands decided against the assessee". The said error being typographical and apparent on the face of the record, the order at Para No.5 stands modified and would read as under:

> *It is thus clear that Section 14A of Income Tax Act, 1961 stands excluded while computing the Income Tax of an Insurance Company, in view of the non-obstante clause contained in Section 44 of Income Tax Act, 1961, the questions of law stand decided against the Revenue.*

4. It is submitted by the learned counsel for the appellant with regard to question C, the matter stands covered by the Judgment of this Court in ***Commissioner of Income Tax Vs. United India Insurance Co.*** *reported in* ***[2019] 111 taxmann.com 217 (Madras ).*** It is further submitted that this Court after having found that the issue stands decided in favour of the assessee, ought not to have remitted back to the Tribunal and therefore the above directions ought to be reviewed.

5. We are afraid we are unable to agree with the submissions of the learned counsel for the appellant inasmuch as the above direction does not suffer from any error apparent on the face of the record. The scope of a review application is limited to rectify errors apparent on the face of the

record, however the Judgment dated 18.11.2021 insofar as it holds that the issue stands covered by the decision in ***Commissioner of Income Tax Vs. United India Insurance Co.*** *reported in* ***[2019] 111 taxmann.com 217 (Madras )*** and remitting the matter back to the Tribunal cannot be said to be order which suffers from any error apparent on the face of the record. In any view it has only been directed that the Tribunal shall re-examine the matter keeping in view the above decision of this Court and thus no prejudice whatsoever is caused.

6. In view of the above, paragraph 5 of the Common Judgment dated 18.11.2021 made in T.C.A Nos. **848, 853, 839, 852, 842 and 854 of 2018,** shall stand modified as under:

> *"5. It is thus clear that Section 14A of Income Tax Act, 1961 stands excluded while computing the Income Tax of an Insurance Company, in view of the non-obstante clause contained in Section 44 of Income Tax Act, 1961, the questions of law stand decided against the Revenue."*

In all other respects, the Judgment dated 18.11.2021 shall remain unaltered.

7. With the above observations, the Review applications are closed. No Costs.

**( P.S.N.,J.) (M.S.Q.J.)**
**14.02.2022**

Index : Yes/No
Internet: Yes/No
smn

To.

The Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
Chennai – 600 101.

**PUSHPA SATHYANARAYANA,J.**
**and**
**MOHAMMED SHAFFIQ,J.**
smn

**Review Applications.11,12,13,14,**
**16 and 17 of 2022**
**against**
**T.C.A.Nos.848,853,839,852,**
**842 and 854 of 2018**

**14.02.2022**