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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

Tax Case Appeal No.609 of 2010
and Tax Case Appeal No.767 of 2009
and M.P.No.1 of 2009
and M.P.No.1 of 2010

M/s. Kuber Jewellery
No.52, NSC Bose Road
Chennai 600 079 ... Appellant in both T.C.As

Vs.

The Income Tax Officer
Ward XI (1)
2nd Floor, Kannammai Building
611, Anna Salai
Chennai 600 006 ... Respondent in both T.C.As

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai Bench 'B' dated 27.02.2009 and 13.02.2009 passed in I.T.A.No.431/Mds/2007 and I.T.A.No.430/Mds/2007.

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For Appellant : Mr.N.Muthukumar

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

<u>COMMON JUDGMENT</u>

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

These Tax Case Appeals have been filed by the appellant / Assessee challenging the order of the Income Tax Appellate Tribunal, Chennai Bench 'B' dated 27.02.2009 and 13.02.2009 passed in I.T.A.No.431/Mds/2007 and I.T.A.No.430/Mds/2007 for the Assessment Years 2000-2001 and 1999 – 2000.

2.The appeal in T.C.A.No.609 of 2010 was admitted on 16.08.2010 on the following substantial questions of law :

> *"1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the reopening of the assessment is valid in law?*
>
> *2. Whether on the facts and in the circumstances of the*

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case, the Tribunal is right in holding that the cash credits of Rs.5 lakhs, interest of Rs.6,92,527/- and travel expense of Rs.74,091/- represents the undisclosed income of the appellant?

3.The appeal in T.C.A.No.767 of 2009 was admitted on 07.09.2009 on the following substantial questions of law :

"1. Whether on the facts and in the circumstances of the case, the Tribunal is right in holding that the reopening of the assessment is valid in law?

2. Whether on the facts and in the circumstances of the case, the Tribunal is right in holding that the cash credits to the extent of Rs.37,50,000/- represents the undisclosed income of the appellant?

3. Whether on the facts and in the circumstances of the case, the Tribunal is right in making general observations

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with regard to the various credits aggregating Rs.37,50,000/- even without considering each of the credits independently, notwithstanding that each credit is a separate item and the provisions of Section 69 will have to be applied with reference to each credit independently and not collectively?"

4.When the matters were taken up for consideration, the learned counsel appearing for the appellant / assessee submitted that during the pendency of these tax case appeals, the assessee has availed the benefit conferred under the Direct Tax Vivad Se Vishwas Act, 2020 and filed necessary declarations, which were accepted and Form 5 / order for full and final settlement of tax arrears, was also issued by the Income tax department, on 23.04.2021. The learned counsel has also filed Form 5 dated 23.04.2021 to that effect.

5.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.

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6.In view of the subsequent development, this court is of the opinion that nothing survives for adjudication in these appeals. Recording the submission so made by the learned counsel on either side, the Tax Case Appeals stand disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

[R.M.D,J.] [J.S.N.P, J.]
07.02.2021

kas

Internet : Yes
Index : Yes / No

To

1.The Income Tax Appellate Tribunal, Madras "B" Bench

2.The Income Tax Officer
Ward XI (1)
2nd Floor, Kannammai Building
611, Anna Salai, Chennai 600 006

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and

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