IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal Nos. 80 & 81 of 2011

V. Arthanari,
Partner of Hotel Kurinchi Thangam,
34-J, II Cross, Narayana Nagar,
Salem-15. ... Appellant in both appeals

Vs.

The Assistant Commissioner of Income Tax,
Circle – III,
Salem ... Respondent in both appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 09.07.2010 passed in I.T.A.No.1460/Mds/2009 and Cross Objection in CO.179/2009 in respect of Assessment Year 2004-05.

For Appellant	:	Mr.T.Vasudevan
For Respondent	:	Mr.M.Swaminathan and M/s.V.Pushpa Standing Counsel

J U D G M E N T

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

These Tax Case Appeals have been filed by the appellant / assessee challenging the order dated 09.07.2010 passed by the Income Tax Appellate Tribunal, B' Bench, Chennai ('the Tribunal', for brevity) in I.T.A.No.1460/Mds/2009 and CO.179/2009 for the Assessment Year 2004-05.

2.The above appeals were admitted on 06.04.2011 on the following substantial questions of law :

"1. Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in upholding the reopening of assessment in the absence of any fresh material?

2. Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in rejecting the contention of the assessee that mere change of opinion on the same material as accepted under sec.143(1)(a) did not clothe the officer with jurisdiction for reopening, vide Supreme Court decision in Kelvinator's case in 320 ITR 560?

3. Whether on the facts and in the circumstances of the case, the Tribunal was justified in upholding the reassessment *especially in the context of no escapement of income and tax, since the same having been returned and accepted in the status of HUF by the very same officer?"*

3.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 filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 10.3.2021 by the Income Tax Department. The learned counsel has also filed a memo dated 14.06.2022 to that effect.

4.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.

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 matters 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 these tax case appeals.

6.Therefore, recording the submissions so made by the learned counsel on either side, these appeals stand 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.

[R.M.D,J.]   [M.S.Q, J.]
14.06.2022

msr
Internet : Yes
Index   : Yes / No

To
1. The Income Tax Appellate Tribunal,
   'B' Bench, Chennai.
2. The Assistant Commissioner of Income Tax,
   Circle – III, Salem

R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

msr

Tax Case Appeal Nos. 80 & 81 of 2011

14.06.2022