C.M.P.No.5052 of 2022
in
TCA.No.271 of 2021

R.MAHADEVAN, J,
&
MOHAMMED SHAFFIQ, J.

(Order of the court was made by R.Mahadevan, J.)

By order dated 22.04.2021, this Court, taking note of the fact that the petitioner / appellant / assessee had availed the benefit of Vivad Se Vishwas Scheme, has disposed of the aforesaid Appeal viz., T.C.A.No.271 of 2021, with liberty to the assessee to restore the appeal, if the ultimate decision to be taken on the declaration filed by him is not in his favour. For better appreciation, paragraph no.5 of the said Judgment is extracted below:

> *"5.In the light of the fact that the assessee has already availed the benefit under the Act, no useful purpose would be served in keeping the appeal pending. At the same time, safeguarding the interest of the assessee in the event the order to be passed by the Department under the Act is not in favour of the assessee. Accordingly, the Tax Case Appeal stands disposed of on the ground that the assessee has already filed the requisite Forms 1 and 2 and the Department shall process the application at the earliest in accordance with the said Act and communicate the decision to the assessee at the earliest.*

> *As observed, the assessee is given liberty to restore the 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 Division Bench for orders."*

2. Heard the learned counsel for the petitioner/appellant/assessee, who submitted that the Designated Authority, without considering the fact that the appeal was already filed on 11.4.2017, had rejected the Declaration filed by the appellant, on the ground that there was no valid appeal pending as on 30.01.2020. Therefore, in exercise of the liberty granted to the appellant to restore the appeal as per the order of this Court dated 22.04.2021, the learned counsel prayed that the appeal may be restored to the file of this Court.

3.Learned Standing counsel appearing for the respondent/Revenue has no objection for restoration of the appeal.

4. Having regard to the submissions made by the learned counsel on either side and also considering the fact that the appellant has already been granted liberty at the time of disposal of the appeal, this petition is ordered as prayed for. Consequently, T.C.A.No.271 of 2021 is restored to file.

[R.M.D.,J.]   [M.S.Q.,J.]
27.06.2022

msr

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