BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.12677 and 12688 of 2022

S.Pushpavalli ... Petitioner in W.P.(MD)No.12677 of 2022

K.Murugan @ Padhmanathan ... Petitioner in W.P.(MD)No.12688 of 2022

Vs.

1.The Commissioner of Income Tax-I,
Madurai.

2.The Assistant Commissioner of
Income Tax,
Circle-1, Tirunelveli. ... Respondents in both cases

PRAYER in both cases: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Mandamus,*** to direct the respondents to grant the refund eligible under section 10 (10C) of Income Tax Act to the petitioners as amount received by an employee on his Voluntary Retirement Scheme an amount of five lacs is not treated as taxable income in the light of Civil Appeal No. 4411 of 2010 in the case of S. Palaniappan Vs. Income Tax Officer, Chennai, dated 28.09.2015.

In both cases:

For Petitioner : Mr.V.Maliyendran
For Respondents : Mr.J.Parekh Kumar
Senior Standing Counsel

COMMON ORDER

These writ petitions are filed for issuance of writ of Mandamus, to direct the respondents to grant the refund eligible under section 10(10C) of Income Tax Act to the petitioners. Under the Early Retirement Option Scheme an amount of five lacs was received by the petitioners and the same cannot be treated as taxable income in the light of Civil Appeal No. 4411 of 2010 in the case of S. Palaniappan Vs. Income Tax Officer, Chennai, dated 28.09.2015.

2. The petitioner in W.P.(MD)No.12677 of 2022 had served as Assistant Manager in ICICI Bank and had put in more than 30 years of service. The petitioner in W.P.(MD)No.12688 of 2022 had served as Clerk in ICICI Bank and had put in more than 22 years of service. They were assesses' under the Income Tax Act. The ICICI Bank framed Early Retirement Option Scheme, 2003. The petitioners opted to avail the benefit of the said scheme and retired on 01.08.2003.

3. The petitioners filed original return under Section 139 in time for assessment year 2004-2005 on 15.10.2004 by claiming exemption under Section 89(1). Also, the petitioners are entitled to claim exemption under Section 10(10C) of the Income Tax Act, since any amount received by the employee on his Voluntary Retirement Scheme an amount of five lacs is not treated as taxable income. But the petitioner without claiming any exemption under Section 10(10C) had filed return of income. Subsequently, the petitioners had filed revised return on 22.03.2006.

4. The contention of the petitioners is that the issue of granting exemption under Section 10(10C) is no longer res integra which is settled before Hon'ble Supreme Court in the case of ***S. Palaniappan Vs. Income Tax Officer, Chennai,*** in Civil Appeal No. 4411 of 2010, vide judgment, dated 28.09.2015. The ICICI Bank Officers Association also directed the retired employees to file the exemption granted under Section 10(10C) in the light of the case of ***S. Palaniappan Vs. Income Tax Officer, Chennai.*** Based on the said judgment, the petitioners have submitted several representations, dated

08.12.2014, 12.05.2016, 07.05.2018, 05.06.2 and 23.09.2021, but the same was not considered by the respondents.

5. The issue of claiming exemption under Section 10(10C) was a prolonged litigation. The Reserve Bank of India (in short RBI) had formulated Voluntary Retirement scheme for its employees. The retired employees of RBI had claimed exemption and the same was considered by Bombay High Court in ***Commissioner of Income Tax Vs. Koodathil Kallyatan Ambujakshan*** and allowed the claim of the assesses. However, the Madras High Court had held in favour of the Revenue in the case of ***Commissioner of Income Tax, Chennai Vs. Chandra Ranganathan*** in TC (A) No. 1353 of 2007 vide order dated 25.02.2008. Aggrieved over, the said Chandra Ranganathan had preferred SLP. Pending SLP the Central Board of Direct Taxes had accepted the Voluntary Scheme and had issued Circular dated 08.05.2009 granting exemption to the RBI employees. Hence the Hon'ble Supreme Court recording the said Circular had allowed the Civil Appeal No.6997 to 7002 of 2009 and had held in favour of assessee.

6. However, as far as ICICI Bank retired employees are concerned the

said circular is not applicable to them, hence the retired employees had continued their litigation and the employees were knocking the doors of various Courts and also CBDT. At this juncture the Hon'ble Supreme Court had granted the relief to the ICICI employees in ***S. Palaniappan Vs. Income Tax Officer, Chennai in Civil Appeal No.4411 of 2010 vide judgment dated 28.09.2015.*** Accepting the judgment rendered in Palaniappan's case the CBDT had issued Circular dated 13.04.2016 to grant relief to all the ICICI employees. The said Circular is extracted hereunder:

"No.200/3/2016-???.1
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)
(ITA-I Division)
*****

Dated the 13th April, 2016

To,
All Principal Chief Commissioners of Income-tax/
All Chief Commissioners of Income-tax/
All Directors General of Income-tax

Sub:- Circulation of Judgment of Hon'ble Supreme Court of India in Civil Appeal No: 4411/2010 in the case of S. Palaniappan vs. Income

Tax Officer, Chennai – reg

Sir/Madam,

I am directed to refer to the above mentioned subject and to forward herewith a copy of order dated 28.09.2015 of Hon'ble Supreme Court of India in the case of S.Palaniappan vs. Income Tax Officer, Chennai.

2. Hon'ble Supreme Court vide its judgment dated 28.09.2015 set aside the judgment dated 27.04.2009 of the Hon. Madras High Court and held that the assessee, Shri S. Palaniappan an employee of ICICI bank who sought voluntary retirement under the Early Retirement Option (ERO), 2003 Scheme- shall be entitled to exemption under section 10(10C) of the Income-Tax Act, 1961.

3. Considering the fact that the matter has travelled up to Supreme Court and has been decided in favour of the retirees of ICICI Bank under the Early Retirement Option 2003 Scheme, I am directed to request that the judgment of the Hon'ble Supreme Court of India be brought to the notice of all officials in your jurisdiction so that relief may be granted to such retirees of ICICI Bank under ERO 2003 Scheme.

DEEPSHIKHA SHARMA

Director to the Government of India"

7. Therefore, following the Palaniappan's case and the CBDT circular dated 13.04.2016, this Court is of the considered opinion that the petitioners are entitled to the relief. Therefore, the respondents are directed to grant the

exemption under Section 10(10C) to the petitioners within a period of eight weeks from the date of receipt of the copy of the order. If the amount has been paid by the assessee, the respondents shall refund the same to the petitioners. The respondents shall grant the benefits to all the retirees of ICICI under the ERO Scheme, 2003 without driving them to courts, since the CBDT Circular dated 13.04.2016 is binding on the Revenue. With this direction, the writ petitions are allowed. No costs.

17.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Tmg

To

1.The Commissioner of Income Tax-I,
Madurai.

2.The Assistant Commissioner of
Income Tax,
Circle-1, Tirunelveli.

S.SRIMATHY, J.

Tmg

W.P.(MD).Nos.12677 and 12688 of 2022

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