

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Tax Case Appeal No.364 of 2020

The Commissioner of Income
Tax, Non Corporate Ward 10(5),
Chennai

...Appellant

Vs

Shri Vipul Munoth

...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.12.2019 passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai made in I.T.A.No.3519/Chny/2018 for the assessment year 2015-16.

For Appellant: Mr.M.Swaminathan, SSC

For Respondent: Mr.P.Hari

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 06.12.2019 made in I.T.A.No.3519/Chny/2018 on the file of the

Income Tax Appellate Tribunal, Chennai, 'A' Bench ('the Tribunal' for brevity) for the assessment year 2015-16.

2. The above appeal has been admitted on 15.10.2020 on the following substantial questions of law:

"i. Whether the Income Tax Appellate Tribunal was right and justified in setting aside the order passed by the Assessing Officer to re-examine the matter when the Assessing Officer has already duly examined the matter before passing the assessment order ? and

ii. Whether the Income Tax Appellate Tribunal was right and justified in remitting the issue back to the file of the Assessing Officer and shifting the onus to the Revenue with a direction that the Assessing Officer shall bring on record the role of the assessee in promoting the company and the relationship of the assessee, if any, with the promoters, role of the assessee in inflating the price of shares, etc.?"

3. We have heard Mr.M.Swaminathan, learned Senior Standing Counsel appearing for the appellant/Revenue and Mr.P.Hari, learned counsel appearing for the respondent/assessee.

4. The learned counsel on behalf of the respondent/assessee submits that the assessee already filed the declaration/undertaking

under the Vivad Se Vishwas Scheme on 20.11.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this 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 appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty and Consequently, the substantial questions of law framed are left open. No costs.

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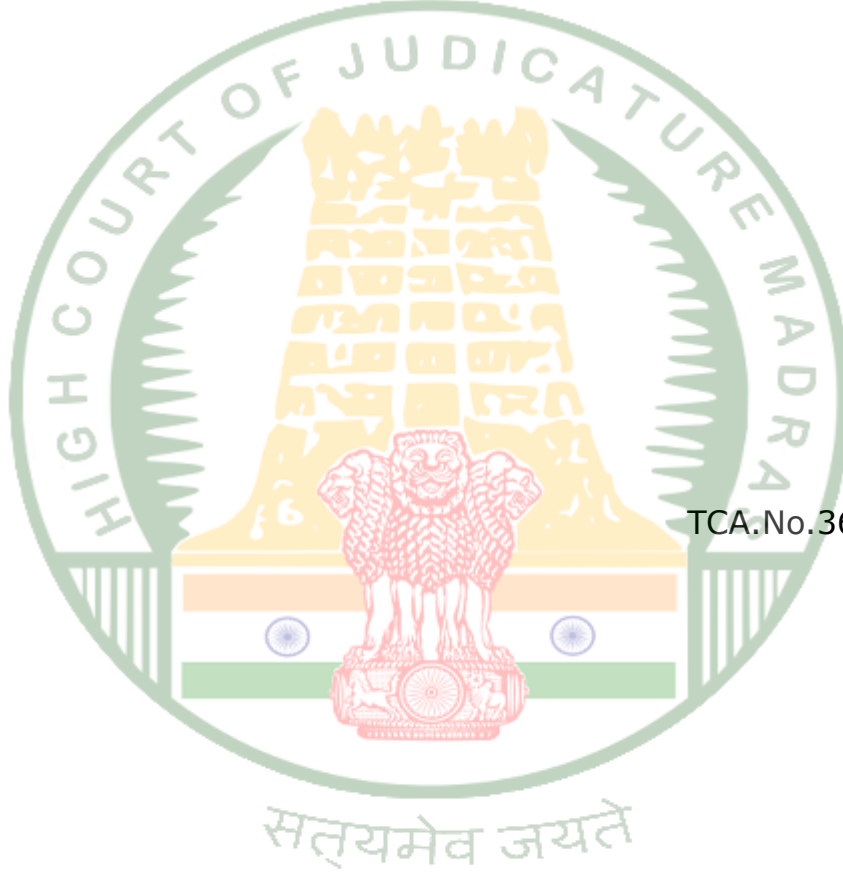
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TCA.No.364 of 2020

T.S.SIVAGNAM,J
AND
PUSHPA SATHYANARAYANA,J

RS

To
The Income Tax Appellate Tribunal, 'A' Bench, Chennai.



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