IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM:

THE HON'BLE DR. JUSTICE VINEET KOTHARI
and
THE HON'BLE DR. JUSTICE ANITA SUMANTH

T.C.(A).No.1147 of 2009

The Director of Income Tax (Exemption)
Chennai. .. Appellant

Vs

Alumni Club Anna University
Boat Club Road, Chennai. .. Respondent

Prayer : Tax Case (Appeal) is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 20.01.2006 passed in ITA No.1726/Mds/2002 for Assessment year 1995-96, against the order of the Assistant Director of Income Tax (Exemptions)-I, Chennai dated 27/03/2002 made in PAN/GIR.NO.1701-A, against the order of the Commissioner of Income Tax (Appeals)-XI, 121, Mahatma Gandhi Salai, Chennai-600 034 made in ITA No.24/2002-03 dated 07/08/2002.

For Appellant : Mr.Karthik Ranganathan
Sr.Standing Counsel

For Respondent : Mr.V.S.Jayakumar

JUDGMENT

(Judgment of the Court was delivered by

DR.VINEET KOTHARI, J.)

Heard the learned counsel for the appellant as well as the respondent.

2. The Revenue preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal Madras 'A' Bench, dated 20.01.2006 passed in ITA No.1726/Mds/2002 for Assessment year 1995-96.

3. The above appeal has been admitted on 18.11.2009 on the following substantial questions of law :

> "(1) Merely because a trust had it registered under section 12A of the Income Tax Act even if its activities were found wholly or mostly to be non charitable would it be still entitled for exemption automatically under section 11 of the Income Tax Act?
>
> (2) If the activities of the trust are limited only to a certain category of people which cannot be construed as a class of public but only as specified category and the benefits even according to the rules and regulations of bye-laws of the trust only reach to such of those members and their family would it be still entitled for exemption under section 11 of the Income Tax Act?"

4. It may not be necessary for us to answer the above substantial questions of law, as the monetary limit in this appeal is lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. A Division Bench of this Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

> "4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
>
> 5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open."

5. In the light of the above, the above appeal is dismissed. No costs. The substantial question of law is left open for consideration.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Madras 'A' Bench.

2.The Commissioner of Income Tax (Appeals)-XI,
121, Mahatma Gandhi Salai,
Chennai-600 034.

3.The Assistant Director of Income Tax (Exemptions)-I,
Chennai.

+1cc to Mr.V.S.Jayakumar, Advocate Sr.82066

T.C.(A).No.1147 of 2009

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srg 02/01/2019