IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HON'BLE MRS. JUSTICE BHAVANI SUBBAROYAN

T.C.(A).Nos.1978 of 2008 and 194 of 2009

Director of Income Tax / Exemption-I,
Chennai. .. Appellant in TCA.No.1978/2008

The Commissioner of Income Tax,
Chennai. .. Appellant in TCA.No.194/2009

Vs

M/s.Kshetropasana,
Gokuldham,
Mduvankari,
Sriperumbudur – 602 105. .. Respondent in both appeals

Prayer : Tax Case Appeals are filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 22.11.2007 and 12.10.2007, passed in ITA Nos.39/Mds/2007 and 849/Mds/2006, respectively.

For Appellant	: Mr.Karthik Ranganathan
For Respondent	: No Appearance

JUDGMENT

(Judgment of the Court was delivered by
T.S.SIVAGNANAM, J.)

Heard the learned counsel for the appellant.

2. The Revenue preferred these appeals challenging the orders passed by the Income Tax Appellate Tribunal in ITA Nos.39/Mds/2007 and 849/Mds/2006, dated 22.11.2007 and 12.10.2007, for the assessment years 1999-2000 and 2002-2003, respectively.

3. The above appeals have been admitted on 20.04.2009 on the following substantial question of law :

> *"i. When there is a clear violation of the condition laid down in Section 11(5) of the Income Tax Act for the grant of exemption, can a contract between the parties stipulating a condition resulting in an ambargo for compliance of the statutory provision could be treated as an exception to the statutory provision.?*

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.

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 appeals are dismissed. No costs. The substantial question of law is left open for consideration.

(T.S.S.,J) (V.B.S.,J)

12.10.2018

rkm
Index:yes/no

T.S.SIVAGNANAM, J.
AND
V.BHAVANI SUBBAROYAN, J.

rkm

To

1.Commissioner of Income Tax,
Chennai

2.Director of Income Tax / Exemption-I,
Chennai.

T.C.(A).Nos.1978 of
2008 and 194 of 2009

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