IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case Appeal No.270 of 2009

The Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

Vellayan Chettiar Trust ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'C' Bench, dated 05.10.2007 in ITA No.136/Mds/2007, for the Assessment year 1992-93. Income Tax Appellate Tribunal 'C' Bench, Chennai in I.T.A. No. 136/mds/2007 dated 05.10.2007 in Assessment year 1992-1993 against the order of the Commissioner of Income Tax (Appeals)IX, Chennai I.T.A. 52/2006-2007 dated 18.09.2006 G1/P.A. No. AAACV2569A Assessment year 1992-1993 against the order of the Assistant Director of Income Tax (Exemptions) IV I/c Chennai 600 034 Assessment year 1992-1993 PAN/GFR No. 4623V.

For Appellant : Mr.Karthick Renganathan
For Respondent : Mr.M.P.Senthil Kumar

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This appeal by the Revenue is directed against the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, dated dated 05.10.2007 in ITA No.136/Mds/2007, for the Assessment year 1992-93.

2.Heard Mr.Karthick Renganathan, learned Counsel for the appellant/Revenue and Mr.M.P.Senthil Kumar, learned Counsel for the Respondent/assessee.

3.This Appeal has been admitted on 16.04.2009, on the following Substantial Questions of Law:

> "1.Whether in the facts and circumstances of the case, the Tribunal was right in holding that the rental income has been applied towards the objects of the trust?

2.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the rental income from the newly constructed property had been applied towards the objects of the trust and the cost of construction incurred by the assessee can be treated as application of income towards the objects of the trust?

4.We have perused the order of Assessment as well as the Order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2008, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this Appeal in view of the low tax effect. Hence, the Appeal is dismissed and the Substantial Questions of Law, framed for consideration, are left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To
1.The Income Tax Appellate Tribunal Madras 'C' Bench.
2. The Income Tax Officer(OSD)
(Exemptions)IV, Chennai.
3. The Commissioner of Income Tax (APPeals)IX
Chennai
4. The Assistant Director of Income Tax (Exemptions)IV
I/C Chennai 34.
+1 Cc to M/s.Philip George, Advocate sr 79230.

T.C.A.No.270 of 2009

VSNII(CO)
SP(10/04/2019)