IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

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

Tax Case Appeal No.892 of 2009

Commissioner of Income Tax (Exemptions)
Chennai.
.... Appellant

Vs.

Sri.Narasimhan Arakkattalai
16-18 Kuppusamy Padmavathy Nagar
Ramapuram
Chennai - 600 089. .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, Chennai, dated 31.03.2009 made in ITA No.1339/Mds/2008. Against the Order of the Director of Income Tax (Exemption), Nungambakkam, Chennai dated 15.04.2008 and made in DIT(E) No.2(791) 05-06.

For Appellant : Mr.J.Narayanasamy
Sr.Standing Counsel

For Respondent : Mr.T.Vasudevan

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

The present Appeal has been filed by the Revenue raising the following substantial question of law under Section 260A of the Income Tax Act arising from the order of the Income Tax Appellate Tribunal dated 31.03.2009 remanding the case back to the Assessing Authority for re-considering the case of the respondent/assessee Sri.Narasimhan Arakkattalai, as to whether the said Trust would remain entitled to exemption under Section 80G of the Income Tax Act.

'Whether on the facts and circumstances of the case, the Tribunal was right in holding that if the expenditure on religious purposes is less than 5% of the total income, the trust would be eligible for exemption under section 80G , even though the assessee is a religious trust registered under section 12AA of the Act?'

2. The relevant portion of the order of the Tribunal, which is Paragraph 8, is quoted below for ready reference.

> '8. On going through the order of the ld. DIT (Exemptions), it can be seen that he has not considered sub-section (5B) of section 80G while denying the benefit of exemption under section 80G of the Act. So, it needs further consideration from the end of ld. DIT(Exemptions), particularly, in the light of sub-section (5B) of section 80G. In these circumstances, we set aside the order of the DIT (Exemptions) and restore back to his file, for considering the matter afresh after taking into account the circumstances as shown in the sub-section (5B) of section 80G.'

3. In view of the case having been only remanded before the concerned Authority, we are satisfied that the question of law raised before this Court, on which appeal has been admitted by the co-ordinate Bench of this Court dated 17.09.2009, need not be answered at this stage and we leave it open to decide the case again in accordance with the remand order of the Tribunal.

4. With these observations, the Tax Case (Appeal) is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To
1.The Direcor of Income Tax,
(Exemption), Chennai - 34.

2.The Deputy Assistant Registrar,
Income Tax Appellate Tribunal,
Madras 'B' Bench, Chennai.

+1cc to Mr.J.Narayanaswamy, Advocate, S.R.No. 85973

TCA No.892 of 2009

MP(CO)
GN(08/01/2019)