IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) Nos.996 to 999 of 2007

Commissioner of Income Tax,
Central I,
Chennai. ... Appellant in all appeals

-vs-

Shri Jeppiar,
12, Ganapathy Street,
Royapettah, Chennai-14. ... Respondent in all appeals

Prayer in T.C.(A) Nos.996 & 997 of 2007 : Tax Case (Appeals) filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 22.09.2006 in IT(SS) A No.117/Mds/2003 and IT(SS) A No.142/Mds/2003, for the assessment block period 01.04.1989 to 12.08.1999 against the order dated 27/3/2003 in I.T.A.No.308/2001-2002 on the file of the Commissioner of Income Tax (Appeals) Central-1, Chennai-34.

Prayer in T.C.(A) Nos.998 & 999 of 2007 : Tax Case (Appeals) filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 22.09.2006 in IT(SS) A No.51/Mds/2005 and IT(SS) No.65/Mds/2005 for the assessment block period 1990-91 to 1999-2000 and 2000-01 (Part) against the order dated 31/1/2002 in PA/aI.No.AAFP3461R on the file of the Deputy Commissioner of Income Tax Central Circle I(3), Chennai-34.

For Appellant : Mr.Karthick Ranganathan,
(in all Appeals) Standing Counsel

COMMON JUDGMENT

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

These appeals have been filed against the common order passed by the Income Tax Appellate Tribunal Madras 'A' Bench, dated 22.09.2006 in IT(SS) A Nos.117/Mds/2003, 142/Mds/2003, 51/Mds/2005 and 65/Mds/2005.

2.The appeals were admitted on 19.06.2007 on the following substantial questions of law and notice was ordered to the respondent / assessee:-

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in deleting the additions on account of unauthorised collections from students for grant of admission to various courses?
> (ii) Whether in the facts and circumstances of the case, the Tribunal was right in deleting the additions made based on notings found at the time of search on the ground that these amounts were spent for meeting expenses of the hostel and canteen, although these amounts were not recorded in the regular books of account?
> (iii) Whether in the facts and circumstances of the case, the Tribunal was right in deleting the withdrawals from the account of Anusha Lakshmi when the accountant of the trust had clearly stated that the amount had been handed over to the assessee?"

3.The respondent / assessee entered appearance through their counsel Mr.R.Natarajan, Advocate. The matter was pending before this Court. When the case came up for hearing on 10.04.2018, Mr.R.Natarajan, learned counsel filed a memo stating that the Chairman of the Trust passed away on 18.06.2016 and he has handed over all the case papers to the office of the assessee, as they wanted to appoint a new counsel. Further, the learned counsel informed the Court that he had written a detailed letter stating the case status and also tried to contact necessary persons over phone, but could not contact any person. Therefore, the learned counsel, by filing the memo, requested that his name may be deleted and he also furnished the names and addresses of the Managing Trustees and Trustees of the respondent Trust.

4.Considering the said submission, this Court passed the order dated 10.04.2018, which reads as follows:-

> "Heard Mr.R.Natarajan, learned counsel, who had entered appearance for the respondent Jeppiaar Educational Trust, has filed a memo reporting that the Chairman of the Trust, Shri.Jeppiaar passed away on 18.06.2016, and he has handed over all the case papers to the office of the assessee, as they wanted to appoint a new counsel.
>
> 2. Further, the learned counsel submits that he wrote a detailed letter stating the case status and also tried to contact over phone, but could not contact any person. Therefore, the learned counsel prays that his name may be deleted. Learned counsel also furnished the addresses of the present Managing Trustees and Trustees of the respondent Trust.
>
> 3. In the light of the above, Registry is directed to delete the name of Mr.R.Natarajan.
>
> 4. Learned counsel for the appellant is directed to take private notice to the trustees, whose names and addresses have been furnished by the former counsel of the respondent informing that the case is listed for hearing on 24.04.2018.
>
> List on 24.04.2018."

5.Subsequently, the matter came up for hearing on 05.06.2018 on which date, at the request of the learned Standing Counsel for the Revenue, the matter was adjourned to 27.06.2018 for bringing the legal heirs on record.

6.When the case was listed on 27.06.2018, once again, request was sought for to bring the legal heirs on records and this Court adjourned the matter stating that it is the last opportunity to bring the legal heirs on record and directed the matter to be listed on 25.07.2018 and observed that if steps are not taken, the Court may constrain to dismiss the appeals as abated.

7.Today, when the matter is listed, the learned Standing Counsel for the Revenue submits that some more time may be granted in this matter. Further, the learned counsel for the appellant / Revenue in fact was very apologetic towards the Court and requested for grant of time.

8.We fail to understand as to why the Department has not given necessary instructions to their counsel in spite of they having been aware of the demise of the assessee as early as on 18.06.2016. We make this observation because, the trust and trustees have to file income tax returns every year and obviously, the Assessing Officer of the respondent / assessee would have been well aware of the demise of the assessee. Thus, for the above reasons, we are not inclined to grant further time in this matter.

9.In the result, the tax case appeals filed by the Revenue are dismissed as abated. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Income Tax,
Central I, Chennai.

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

3.The Commissioner of Income Tax (Appeals) Central-1,
Chennai-600 034.

4.The Deputy Commissioner of Income Tax,
Central Circle I (3), Chennai-34.

Tax Case (Appeal) Nos.996 to 999 of 2007

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srg 2/8/2018