In the High Court of Judicature at Madras

Dated : 13.11.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.766 of 2018

The Principal Commissioner of
Income Tax, Central 2,
Chennai-34. ...Appellant/Appellant

Vs

M/s.Tagore Educational Trust,
No.29 Tilak Street, T.Nagar, Chennai.
...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.2.2018 in ITA No.1830/Chny/2017 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 2008-09, against the order of the Commissioner of Income Tax (Appeal) -17, Chennai dated 31.3.2017, and made in I.TA No.206/15-16/(TT(A)-17, against the order passed by the Deputy Commissioner of Income Tax (Exemptions) Chennai Circle, Chennai.

For Appellant : Mr.T.R.Senthilkumar, SSC

For Respondent : No appearance

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned counsel for the appellant.

2. The Revenue has preferred this appeal challenging the order passed by the Income Tax Appellate Tribunal in ITA.Nos.1830/Chny/2017 for the assessment year 2008-09.

3. The above tax case appeal is filed raising the following substantial questions of law :

> "i. Whether the Appellate Tribunal is correct in law in upholding the order of the Commissioner of Income Tax (Appeals) without

appreciating the fact that the assessee violated the provisions of Section 13(1)(d) read with Section 11(5) of the Act by parking funds as advances/loans in other trusts and thereby disentitled for the benefit of exemption under Section 11 of the Income Tax Act? And

ii. Whether the loans and advances given to other trusts registered under Section 12AA do fall in one or more of the forms or modes specified under Section 11(5) of the Income Tax Act, 1961?"

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 that circular 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.
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> 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. Though the assessment was reopened under Section 147 of the said Act, the learned Senior Standing Counsel for the Revenue submits that there is no audit objection.

6. In the light of the above, the above appeal is dismissed. The substantial questions of law raised are left open for consideration.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Chennai 'C' Bench.

2.The Commissioner of Income tax,
(Appeal)-17, Chennai.

3.The Deputy Commissioner of Income Tax (Exemptions),
Chennai Circle, Chennai.

4.The Principal Commissioner of Income Tax,
Central-2,
Chennai-34.

+1cc to Mr.T.R.Senthil Kumar, Advocate Sr.77558

TCA.No.766 of 2018

BS(CO)
SRG 14/12/2018