IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

CORAM :

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

TCA.Nos.24 to 26 of 2009

The Director of Income Tax
(Exemptions)-I,
Chennai - 600 034. ..Appellant/ Appellant in all the appeals

Vs.

M/s.The Wellingdon Charitable Trust,
Raja Annamalaipuram,
Chennai - 600 028. ..Respondent/ Respondent in all the appeals

Prayer : Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal Madras 'C' Bench, dated 15.04.2008 in I.T.A.No.1759, 1760 & 1761/Mds/07 for the assessment year 2001-02, 2003-04 and 2004-05 against the order passed by the Commissioner of Income Tax (Appeals)-XI, Chennai made in ITA No.479,480 & 487/06-07, dated 09.02.2007 against the Deputy Director of Income Tax (Exemptions)-I, Chennai made in G.I.No./PAN 1646-T, dated 15.12.06 and G.I.No/PAN 1646-T, dated 15.12.06 and G.I.No./PAN 1646-T

For Appellant
in all the appeals : Mr.J.Narayanasamy
Senior Standing Counsel

For Respondent
in all the appeals : Mr.A.S.Sriraman

COMMON JUDGMENT

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

These appeals by the Revenue under Section 260 A of the Income Tax Act, 1961 (hereinafter referred to as "the Act") are directed against the common order dated 15.04.2008 in I.T.A.No.1759, 1760 & 1761/Mds/07 for the assessment year 2001-02, 2003-04 and 2004-05.

2.We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the appellant/revenue and Mr.A.S.Sriraman, learned counsel appearing for the respondent/assessee.

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

> "Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the income arising out of running/letting out of two auditoriums and hostel held by the assessee cannot be treated as assessable income of the trust as per the provisions of Section 11(4A)?"

4.The Tribunal in the impugned order referred to its earlier decisions on identical issue in the assessee's own case for the earlier assessment years and dismissed the appeals filed by the revenue. The decision of the Tribunal in the earlier assessment years was the subject matter of appeal before this Court in the case of Director of Income Tax (Exemptions) vs. Willington Charitable Trust [(2011) 330 ITR 0024(Mad)] and it was held that the substantial questions of law raised were answered in favour of the Revenue and in view of their reasoning that a business income, if utilized towards the achievement of the object of the assessee trust, would be incidental to the achievement of the object, the Division Bench of this Court deemed it fit to remand the assessment files to the AO to decide as to whether such business income was used for the attainment of the object and thereafter proceed in accordance with law. Ultimately, the orders passed by the Tribunal were set aside and those appeals were allowed to the extent indicated above.

5.Thus, following the above decision in the assessee's own case, the the common order passed by the Tribunal is hereby set aside and remanded to the Assessing Officer as has been ordered in (2011) 330 ITR 0024(Mad) and the appeals stand disposed of accordingly. No costs.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax, (Appeals-XI),
Chennai - 34.

3. The Deputy Director of
Income Tax, (Exemptions) -I,
Chennai.

+1cc to Mr.S.Sridhar, Advocate, SR.No.65072

Kak(18/09/2019)