IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM:

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

Tax Case Appeal No. 40 of 2009

The Commissioner of Income Tax,
Central I, Chennai. ... Appellant/Respondent

Vs

M/s. SRM Institute of Science and Technology
3 Veerasamy Street,
West Mambalam,
Chennai - 600 033. ... Respondent/Appellant

Tax Case Appeal filed u/s.260-A of the Income Tax Act, 1961, against the order of Income Tax Appellate Tribunal Chennai 'C' Bench, dated 11.07.2008 in ITA No.1699/Mds/2007, against the order of Commissioner of Income Tax, Central -I, Chennai on CNO.1582A/1/80G/05-06/C/dated 23/11/2015.

For Appellant : Mr. T.R.Senthil Kumar, SSC
Ms. K.G.Usha Rani

For Respondent : Ms. Sree Lakshmi Valli for
Mr.N.Muthukumar

JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM, J]

This appeal by the Revenue filed u/s.260-A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is directed against the order dated 26.08.2008 passed by Income Tax Appellate Tribunal Chennai 'C' Bench (hereinafter referred to as 'Tribunal') in ITA No.1699/Mds/2007.

2. This Tax Case Appeal was admitted on 06.03.2009 on the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Income tax Appellate Tribunal was right in holding that the Commissioner of Income Tax was not right in rejecting the assessee's application for registration under Section 12AA on the ground that the said application was redundant when the assessee has also applied for notification under Section 10 (23C) of the Income Tax Act? And

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee had sufficient and genuine cause for filing the appeal before it with a delay of 514 days without considering the contradictory stands taken by the assessee in the petition for condonation of delay and in the grounds of appeal?”

3. The application filed by the assessee for grant of registration under Section 12AA of the Act was rejected by the Commissioner of Income Tax Appeals, Central -I, vide order dated 23.11.2005. On a perusal of the order, we find that the reasons for rejection is that an application has been filed by the assessee under Section 10(23C) of the Act, which is pending at the relevant time and therefore, the Commissioner opined that the application filed under Section 12AA of the Act is redundant and there is no necessity for granting registration to the assessee.

4. This order was reversed by the Tribunal, in our view, rightly so. It may not be necessary for us to adjudicate the correctness of the order passed by the Tribunal, since subsequently, the respondent/assessee has been granted registration under Section 12AA of the Act with effect from Assessment Year 2005-06, which the assessee has accepted.

5. Considering the facts and circumstances of the case, we find no grounds to interfere with the order passed by the Tribunal and we also hold that no substantial question of law arising for consideration in this appeal.

6. Accordingly, the appeal filed by the revenue fails and the same stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

mp

To

The Commissioner of Income Tax,
Central I, Chennai.

+1cc to Mr.N.Muthukumar, Advocate SR.No.66847

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.67213

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SJ(CO)
GMY(13/09/2019)