In the High Court of Judicature at Madras

Dated : 13.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.1110 & 1111 of 2010

The Commissioner of Income Tax,
Chennai ...Appellant

Vs

M/s.Shanmuga Arts, Science,
Technology & Research Academy,
Chennai-24. ...Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 13.11.2009 made in ITA.Nos.1740 and 1741/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment years 2003-04 and 2005-06 and against the O/O. Commissioner of Income Tax (Appeals)-XII, Nungambakkam, Chennai-34 made in ITA No.498/07-08 order dated 30.05.2008 and against the O/o. Commissioner of Income Tax Nungambakkam, Chennai made NoITA No.499/07-08 order dated 30.05.2008.

For Appellant :Mr.J.Narayanasamy, SSC

For Respondent: Mrs.G.Vardhini for M/s.J.Sree Vidya

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel for the appellant - Revenue and Mrs.G.Vardhini, learned counsel appearing for the respondent.

2. These appeals, filed by the Revenue under Section 260A of the Income Tax Act, 1961, are directed against the common order

dated 13.11.2009 made in ITA.Nos.1740 and 1741/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment years 2003-04 and 2005-06.

3. The appeals were admitted on 18.1.2011 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that charging of guarantee commission at the rate of 1.5% to each of the trustees was proper for the assessment years 2003-04 and 2005-06 ? and
>
> ii. Whether the Tribunal was correct in not considering the fact that the trust had sufficient funds at its disposal as it had invested in fixed deposits and had earned interest and also had regular source of income in the form of fees based on which, it had obtained concessional rate of interest, yet paid guarantee commission to the trustees?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeals are not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effects involved in these cases are less than the threshold limit.

5. In the light of the said submissions, the above tax case appeals are dismissed on account of the low tax effect. The substantial questions of law raised are left open. In the event the tax effects are above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

RS

To

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

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

+1cc to Mr.J.Narayanasamy, Advocate SR.No.69807

+1cc to M/s.J.Sree Vidya, Advocate SR.No.69025

TCA.Nos.1110 & 1111 of 2010

RR(CO)
GMY(26/09/2019)