IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:. 15.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M. SATHYANARAYANAN
&
THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

Tax Case Appeal No.1168 of 2010

Commissioner of Income Tax-II
Tiruchirapalli ... Appellant/Respondent

Vs.

M/s. Saraswathi Educational and
Health Trust,
F-8, First Floor,
Opp. to Bharathidasan University,
Mathur, Pudukottai Main Road,
Trichy. ... Respondent/Appellant

Appeal against the order of the Income Tax Appellate Tribunal, Chennai "C" Bench, dated 19.3.2010 passed in ITA No.2436Mds/2007 in respect of the assessment year 1998-99 . This Appeal preferred against the Commissioner of Income Tax (Appeals) Tiruchirapalli order dated 11.06.2007 made in I.T.A/151/2004-2005 for the Assessment year 1998-1999 and preferred against the order of the Assistant Commissioner of Income Tax, Circle IV, Tiruchirapalli order dated 31.03.2004 made in P.A. No/GIR No.AACTS7491E and preferred against the Deputy Commissioner of Income Tax Range IV, Tiruchirapalli order dated 07.10.2002 made in I.T.A. 48/MDS/2002 for the Assessment year 1998-1999 and preferred against the Commissioner of Income Tax (Appeals)XI Chennai 34 order dated 19.12.2001 made in I.T.A. No. 82/2001-2002 for the Assessment year 1998-1999 and preferred against the Deputy Director of Income Tax (Exemptions) I, Chennai order dated 28.03.2001 made in PAN/GIR No. 1899-s for the Assessment year 1998-1999.

For Appellant : Mr.K. Subramaniam

For Respondent : Mr.K. Prasad

J U D G M E N T

(Judgment of the Court was delivered by M.Sathyanarayanan, J.)

The respondent Trust who was granted exemption under Section 80G of the Income Tax Act from 2.2.1998 to 31.3.1999, had filed its return on Income Tax pertains to the assessment year 1998-1999 on 5.4.1999 admitting 'Nil' income and claimed tax exemption under Section 11 of the Act.

2. The Assessing Officer after giving opportunity to the assessee and on perusal and consideration of the records, passed an order of assessment dated 28.3.2001, highlighting that the total tax payable by the respondent Trust is Rs.56,96,842/-.

3. The assessee aggrieved by the order of assessment filed an appeal before the Commissioner of Income Tax (Appeals) XI Chennai-33, who vide order dated 19.12.2001 has dismissed the appeal.

4. The assessee filed further appeal before the Income Tax Appellate Tribunal "C" Bench, Chennai and the tribunal, vide order dated 7.10.2002 has remanded the matter to the Assessing Officer. On remand, the Assessing Officer, on perusal of records and providing opportunity, has passed an order dated 31.3.2004 holding that the total tax payable by the respondent Trust is Rs.56,96,842. The respondent Trust filed an appeal before the Commissioner of Income Tax (Appeals), Tiruchirappalli, who, vide order dated 11.06.2007, has dismissed the appeal. The Respondent Trust filed further appeal before the Income Tax Appellate Tribunal, Chennai 'C' Bench, Chennai (in short 'ITAT'). The ITAT vide impugned order dated 19.3.2010 allowed the appeal. The Revenue, aggrieved by the same, preferred the present appeal which was admitted on the following substantial question of law by this Court, vide order dated 24.1.2011.

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the addition of Rs.1,07,41,811/- being the amount assessed as unexplained cash credits u/s.68 of the Income Tax Act since the assessee could not prove the identity and creditworthiness of the alleged donors and the genuineness of the donations on the only ground the Trust was registered u/s.12A of the Income Tax Act?"

5. Learned Standing Counsel appearing for the appellant has invited the attention of this Court the Circular No.17/2019 in

F.No.279/Misc.142/2007-ITJ (Pt.) issued by Ministry of Finance, Department of Revenue, Central Board Direct Taxes, Judicial Section, Government of India dated 8.8.2019 and would submit that in the light of the said Circular, the monetary limit in respect of High Court is enhanced to Rs.1,00,00,000/- and in the instant case, the tax claimed from the respondent/assessee is to the tune of Rs.56,96,842 which is less than the monetary limit imposed and hence there is no necessity to answer the substantial question of law in this case.

6. In the result, the Tax Case Appeal is dismissed subject to above observation. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To
1. The Income Tax Appellate Tribunal,
Chennai "C" Bench

2.The Commissioner of Income Tax (Appeals) No.4,
Williams Road, Cantonment, Tiruchirapalli 620 001.

3.The Assistant Commissioner of Income Tax, Circle IV,
Tiruchirapalli

4.The Deputy Commissioner of Income Tax
Range IV, Tiruchirapalli

5.The Commissioner of Income Tax (Appeals)
121, Mahathma Gandhi Road
Chennai 600 034.

6.The Deputy Director of Income Tax
(exemptions)I, Chennai

+1 CC to Mr.J. Narayanasamy, Advocate sr 95682.
+1 CC to M/s.B. Sumithra, Advocate sr 96503.
+1 CC to Mr.K. Prasad, Advocate sr 95658.

Tax Case Appeal No.1168 of 2010

KJ(CO)
SP(21/01/2020)