IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal Nos.462 & 463 of 2010

Commissioner of Income Tax
Salem. ... Appellant in both TCAs.

vs.

Rural Education and Aids Care Home,
No,30/18C, Chennakrishnapuram,
Salem 636 007. ...Respondent in both TCAs.

TCA.No.462 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, Chennai, dated 13.08.2009, made in ITA No.520/Mds/2009,

against the order of the Commissioner of Income Tax, Salem order dated 11/03/2009 made in C.No.9755 (64)/SLM/2008-2009.

TCA.No.463 of 2010 is filed under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, Chennai, dated 13.08.2009, made in ITA No.521/Mds/2009,

against the order of the Commissioner of Income Tax, Salem order dated 11/03/2009 made in C.No.9755 (64)/SLM/2008-2009.

For Appellant in both TCAs. : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent in both Appeals : Mr.T.Vasudevan
for Mr.N.Quadir Houseyn

COMMON JUDGMENT

(By Dr.Vineet Kothari, J.)

Revenue has filed both the Appeals under Section 260-A of the Income Tax Act,1969, against the order dated 13.08.2009 passed in n ITA No.520/Mds/2009 and ITA No.521/Mds/2009.

2. The relevant portion of the impugned proceedings of the Commissioner of Income Tax, Salem in C.No.9755(64)/ SLM/2008-2009 before us by way of present appeals is quoted before for ready reference:

> 3. The details filed by the Authorised Representatives are receipts and payments accounts for the Financial Year ended 31.03.2008 and from 01.04.2008 to 31.01.2009. No activities were carried out during the Financial Years 2007-2008. The accounts for the period 01.04.2008 to 31.01.2009 show expenses made in carrying out activities like ' Food to Poor', Medical Aid to Poor' etc. However, the applicant trust did not file any verifiable evidences in support of these alleged activities and the expenses incurred thereon. Subsequently, on 09.03.2009 a letter was filed by the applicant trust enclosing letters issued by four organizations, through which the trust is supposed to have carried out its activities. The letter from Sri K.Karunakaran, M.A.,B.L., is dated 03.03.2009 and the letter from Pallava Foundation is dated 06.03.2009. The letter from shanmuga Medical Research Foundation Trust is undated. Obviously, these letters do not explain that the activities were carried out during the period for which the accounts have been furnished. It is necessary for the Trust to terms of its objects and provide evidence which can be verified to ascertain whether the activities were genuinely carried out.

3. The learned counsel for the Revenue appellant submitted that the learned Commissioner was justified in rejecting the application of respondent Trust by the impugned order dated 11.03.2009, stating that the letters produced by the respondent trust do not explain that the activities were carried out in terms of its objects during the period for which the accounts have been furnished. Further, neither the Trust Deed in

original and certified copy nor the copies of the accounts of the trust along with satisfactory evidence was furnished before the learned Commissioner, therefore there was no question of verifying the activities of Trust being carried out in terms of the objects.

4. We have heard the learned counsel for the parties and perused the materials available on record.

5. The issue to be considered is whether the order of the Income Tax Appellate Tribunal in remanding the case back to the Commissioner of Income Tax for looking into the objects of the trust deed is correct or not and further the Assessee is entitled to registration under Section 12AA and recognition under Section 80 G of the Income Tax Act, 1961 or not ?

6. The learned Senior Standing counsel submitted that whether the respondent-trust had carried out the activities in consonance of the Trust or not cannot be remanded to CIT for the purpose of grant of registration Section 12 AA of the Act. Therefore, there is no point in remanding the case back as the respondent Trust had failed to produce necessary evidence before CIT in the first instance.

7. We have considered the submissions. We find that there is no substantial question of law involved. It is for the Tribunal to examine the Trust Deed and come to an independent conclusion as to whether the respondent Trust was entitled for Section 12AA Registration or not. We therefore direct the learned Tribunal to re-examine the objects of the Trust Deed and consider the relevant evidence to see whether the same fall within the ambit and scope of Section 12 AA or not. Since long period was already passed, we direct the learned Tribunal to pass orders, in accordance with law within a period of six months from today. Further notice to the Assessee for appearance at the first instance on 17.10.2019.

8. Accordingly, these Appeals of the Revenue are disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kkd

To

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

2.The Income Tax Officer(Hars),
O/o The Commissioner of Income Tax,
Salem.

+1cc to M/s.J.Narayanaswamy ,Advocate Sr.76370
+1cc to M/s.T.Varudevan, Advocate Sr.76358

T.C.A.Nos.462 & 463 of 2010

cp[co]
srg 11/11/2019