In the High Court of Judicature at Madras

Dated : 20.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.105 & 106 of 2011 & MP.No.1 of 2011

The Director of Income Tax,
Exemption-I, Chennai-34. ...Appellant/Appellant

Vs.

M/s.The Wellington Charitable
Trust, Chennai-28. ...Respondent/Respondent

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 08.10.2010 made respectively in I.T.A.Nos.685 and 686/Mds/2010 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment years 2006-07 and 2007-08 against the order of the Revenue for assessment years 2006-2007 and 2007-2008 respectively are directed against the order of the ID(IT(A)in 53/2008-2009, dated 26/09-2010 dated 26.02.2010 against order of this appeal is directed against the order under Section 143(3) of the Income Tax Act, 1961 (in short Act) dated 14.10.2008 passed by the Deputy Director of Income Tax (Exemptions)I Chennai. There are 15 grounds of appeal against Assessing officer;s refused to stant exemption u/s 11 of the Act in PAN/GIR No. 1646-T, 2006-2007(2007-2008, 06.07.2009)

For Appellant : Mr.J.Narayanasamy, SSC
For Respondent : Mr.A.S.Sriraman

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

These appeals by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) are directed against the common order dated 08.10.2010 made respectively in I.T.A.Nos.685 and 686/Mds/2010 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment years 2006-07 and 2007-08.

2. The Revenue filed these appeals by raising the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Tribunal was right in following its earlier orders without evaluating the eligibility of exemption under Section 11 of the Act for the current assessment year ? And
>
> ii. Whether, on the facts and circumstances of the case, the Tribunal was right in passing this order contrary to the order passed by this Court in TCA.Nos.1812 and 2112 to 2116 of 2008 and 468 of 2010 dated 08.10.2010 ?"

3. 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.

4. The Tribunal, in the common 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 assessee's own case for the earlier assessment years was the subject matter of appeal before this Court in the decision reported in (2011) 330 ITR 24 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 Assessing Officer 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 the matters are remanded to the Assessing Officer as has been ordered in the assessee's own case in the decision reported in (2011) 330 ITR 24. The appeals stand disposed of accordingly. Consequently, the connected MP is closed. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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

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

3.The Director of Income Tax Exemption 1, Chennai 34.

4.The Deputy Director of Income Tax
(Exemptions)I, Chennai 34

+1 CC to Mr.J.Narayanasamy, advocate sr 72219
+1 CC to Mr.S. Sridhar, Advocate sr 70615.

TCA.Nos.105 & 106 of 2011
and MP.No.1 of 2011

NR(CO)

SP(22/10/2019)