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 No.121 of 2011

The Income Tax Officer (OSD),
Exemption III, Chennai ...Appellant

Vs

M/s.Shanmuga Arts Science
Technology & Research Academy
(SASTRA), Chennai-34. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 13.10.2010 made in ITA.No.1003/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2006-07,

and against the order dated 19/03/2010 on the file of the Commissioner of Income Tax (Appeals)-XII, Chennai made in ITA No.301/08-09 for the Assessment Year 2006-07,

and against the order of the Income Tax Officer (OSD), Exemption III, Chennai dated 30/12/2008 made in U/s 143 (3) of the Income Tax Act, 1961.

For Appellant :Mr.J.Narayanasamy, SSC

For Respondent:Ms.J.Sree Vidhya

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel, appearing for the appellant - Revenue and Ms.J.Sree Vidhya, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated

13.10.2010 made in ITA. No.1003/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2006-07.

3. The appeal was admitted on 15.3.2011 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 year 2006-07 ? 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 deposit 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 appeal is 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 effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is 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 appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

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

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

3.The Income Tax Officer (OSD),
(Exemptions)-III, Chennai.

+1cc to M/s.J.Sreevidhya, Advocate Sr.70933
+1cc to Mr.J.Narayanaswamy, Advocate Sr.72220

TCA.No.121 of 2011

gp[co]
srg 04/11/2019