In the High Court of Judicature at Madras

Dated : 02.1.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal No.273 of 2011

The Commissioner of Income Tax,
Salem ...Appellant

Vs

M/s.Jairam Educational Trust,
Salem-2 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 26.11.2010 in ITA No.571/Mds/2010 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench against the Commissioner of Income Tax, Salem in C.No.9755(3)/SLM/2006-07, order dated 26.02.2010.

For Appellant : Mr.J.Narayanasamy, SSC

For Respondent : M/s.Pass Associates

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 26.11.2010 in ITA No.571/Mds/2010 on the file of the Income Tax Appellate Tribunal Chennai 'A' Bench (for brevity, the Tribunal).

2. This appeal was admitted on 01.8.2011 on the following substantial questions of law :

> "i. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that if registration under Section 12AA was granted to the applicant trust, approval under Section 80G of the Income Tax Act could not be denied, overlooking the clear

provisions of Clause (ii) of Sub-Section (5) of Section 80G of the Income Tax Act ?

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that if registration under Section 12AA continued, approval under Section 80G could be granted without appreciating that both were independent proceedings under the Income Tax Act, 1961 ? and

iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in not applying the ratio of the Supreme Court's decision in the case of Upper Ganges Sugar Mills Ltd. Vs. CIT [reported in 227 ITR 578], which is binding law under Article 141 of The Constitution of India?"

3. We have heard the learned Senior Standing Counsel appearing for the Revenue and the learned counsel for the respondent.

4. The assessee filed an appeal before the Tribunal questioning the order of the Commissioner of Income Tax (Appeals) refusing to recommend renewal of exemption under Section 80G of the Act on the alleged ground that the objects of the assessee trust, as could be seen from the trust deed dated 26.3.1999, were not found to be charitable in nature. The Tribunal considered the objects of the trust and noted that the trust continued to be registered under Section 12AA of the Act and rightly held that only if the objects are charitable in nature, they can be continued to be registered under Section 12AA of the Act and therefore, found that there was no valid reason to deny approval under Section 80G of the Act. We find the reasons assigned by the Tribunal, considering the facts and circumstances of the case, to be just and proper. No substantial question of law arises for consideration in this appeal.

5. Accordingly, the above tax case appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of Income Tax, Salem.

+1 cc to Mr.J.Narayanaswamy, Advocate Sr.No.143

TCA.No.273 of 2011

SS(CO)
CSL/26.02.2019