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.636 of 2011

The Commissioner of Income
Tax, Madurai ... Appellant

Vs

M/s.Kadayanallur Cholia Brahmana
Mahajana Trust, Kadayanallur,
Tirunelveli District. ... Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 27.6.2011 in ITA No.183/Mds/2011 on the file of the Income Tax Appellate Tribunal Madras 'B' Bench for the assessment year 2005-06 against the order of the Commissioner of Income Tax under Section 12AA(1)(6)(ii) r.w.s.254 of the Income Tax Act 1961, dated 27.03.2009 in C.No.101/237/CIT/II/2005-06.

For Appellant : Mr.J.Narayanasamy, SSC

For Respondent : Mr.A.S.Sriraman for Mr.S.Sridhar

Judgment was delivered by T.S.SIVAGNANAM,J

Heard the learned Standing Counsel for the appellant.

2. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessee. The appeal was admitted on 07.2.2012 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in setting aside the order of the Commissioner of Income Tax and direct the Commissioner of

Income Tax to grant registration under Section 12AA of the Income Tax Act to the assessee valid in law ? And

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in dismissing the appeal filed by the Revenue even though the order of the Tribunal was brought into notice before the Commissioner of Income Tax (Appeals), and the Tribunal not considered or remitted back to the Commissioner of Income Tax (Appeals) for fresh consideration ?”

3. The Revenue seeks to withdraw this appeal on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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 under exceptional clauses mentioned in the 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(CO)

//True Copy//

Sub Assistant Registrar

RS

To
1. The Income Tax Appellate Tribunal, Madras 'B' Bench.

2. The Commissioner of Income Tax-II, Madurai.

+1 cc to Mr.J.Narayanaswamy, Advocate Sr.No.146
+1 cc to Mr.S.Sridhar, Advocate Sr.No.357

TCA.No.636 of 2011

PPA(CO)
CSL/31.01.2019