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.495 OF 2012 & MP.NO.1 OF 2012

The Commissioner of Income Tax,
Madurai ...Appellant

Vs

The Society of Mother of Sorrows
Servants of Mary, Maria Natchthira
Province, 106J/23, Millerpuram,
Turicorin. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.3.2012 in ITA No.98/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2005-06.

For Appellant : Mr.J.Narayanasamy, SSC

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 21.3.2012 in ITA No.98/Mds/2012 on the file of the Income Tax Appellate Tribunal Chennai 'B' Bench (for brevity, the Tribunal) for the assessment year 2005-06.

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

> "i. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in following the earlier order dated 30.8.2011 in MA.No.131/Mds/2011 in ITA.No.375/ Mds/2011 in the assessee's own case, which has not become final ? And

ii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in granting the registration under Section 12AA, which was not available during the relevant assessment year ?”

3. We have heard Mr.J.Narayanasamy, learned Standing Counsel appearing for the Revenue.

4. We find that the present appeal filed by the Revenue is on the ground that the earlier order passed by the Tribunal in MA.No.131/Mds/2011 in ITA.No.375/Mds/2011 dated 30.8.2011 has not attained finality and that the Tribunal erred in following the said decision. In the memorandum of grounds of appeal filed by the Revenue, it has been stated that the said order dated 30.8.2011 has not become final. However, in the grounds of appeal, the appeal number namely the tax appeal number filed by the Revenue has not been given. In any event, it is always open to the Revenue to contest the other appeal, which appears to be the main matter, since the Tribunal had followed the said order dated 30.8.2011 in the present appeal.

5. Hence, the tax case appeal filed by the Revenue is closed and liberty is granted to the Revenue to pursue the appeal filed against the order dated 30.8.2011 in MA.No.131/Mds/2011 in ITA.No.375/Mds/2011. Consequently, the connected MP is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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

2. The Commissioner of Income Tax,Madurai.

+1cc to Mr.J.Narayanasamy, Advocate, S.R.No.144

TCA.No.495 of 2012
and MP.No.1 of 2012

RR(CO)
CS/26/03/2019