IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019
CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case Appeal No.502 of 2015

Commissioner of Income Tax,
Salem. ...Appellant/Respondent

Vs

Jairam Educational Trust,
2, Deivanayagam Street,
Shevapet, Salem. ...Respondent/ Appellant

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 21.11.2014 made in ITA.No.1720/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2004-05 against the Order of the Commissioner of Income Tax (Appeals), Salem in ITA No.172/2010-11 dated 29.07.2013 and against the Order of the Assistant Commissioner of Income Tax Circle III, Salem, made in AAATJ 3034 B dated 31.12.2010.

For Appellant : Mr.M.Swaminathan, SSC
and Ms.V.Pushpa, SC

For Respondent : No appearance.

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

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Ms.V.Pushpa, learned Standing Counsel appearing for the appellant/revenue.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 21.11.2014 made in ITA.No.1720/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment year 2004-05.

3.The appeal was admitted on 26.08.2015 on the following substantial questions of law :

> "1.Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that corpus fund received by the Trust

during the year cannot be treated as the income of the trust/institution for the purpose of determining 'aggregate annual receipts, in order to enjoy the benefit under Section 10(23C)(iiiad)?

2.Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that trust receipts and receipts of the college running under the trust are not to be clubbed together for the purpose of determining the threshold of exemption under Rule 2BC of Income Tax Rules, 1962 read with Section 10(23C)(iiiad) of the Income Tax Act?"

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.

cse

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Commissioner of
Income Tax (Appeals), Salem

3. The Assistant Commissioner of
Income Tax Circle III, Salem

+1cc to Mr.M.Swaminathan, Advocate, SR.No.73531

TCA.No.502 of 2015

Kak(05/11/2019)