IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

Tax Case Appeal Nos.412 to 414 of 2013

Commissioner of Income Tax,
Chennai. .. Appellant/Respondent in all Appeals

-vs-

M/s.Medical Trust of Seventh Day Adventists,
AA 148, III Avenue, Anna Nagar,
Chennai-600 040. .. Respondent/Appellant in T.C.A.No.412 of 2013

M/s.The Council of Seventh Day Adventists Educational Institution,
AA 148, III Avenue, Anna Nagar,
Chennai-600 040. .. Respondent/Appellant in T.C.A.No.413 of 2013

M/s.Service Association of Seventh Day Adventists P. Ltd.,
AA 148, III Avenue, Anna Nagar,
Chennai-600 040. .. Respondent/Appellant in T.C.A.No.414 of 2013

Appeals under Section 260A of the Income-tax Act, 1961 against the common order dated 06.07.2012 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.Nos.927, 929 & 928/Mds/2012 for the assessment year 2007-08.

against the order of the Commissioner of Income Tax, Appeals XII, Chennai - 34, made in ITA 294/2009-10 dated 22/02/2012, ITA 298/2009-10, dated 22/02/2012, ITA 297/2009-10 dated 22/02/2012 and against the order of the Income Tax Officer (OSD), Exemptions III, Chennai made in PAN/GIR No. 3697-M dated 30.11.2009 Assistant Year 2007-2008, PAN GIR No. 3623-C AAATC 0175A dated 30.11.2009 Assessment Year 2007-2008, PAN/GIR 3806 -S AAACS 9635J Assessment Year 2007-2008.

For Appellant (In all Appeals)	:	Mr.M.Swaminathan, Senior Standing Counsel
	:	assisted by Ms.V.Pushpa, Junior Standing Counsel
For Respondents (In all Appeals)	:	Mr.A.S.Sriraman, for Mr.S.Sridhar

COMMON JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 06.07.2012, passed by the Income Tax Appellate Tribunal 'A' Bench, Chennai, in I.T.A.Nos.927, 929 & 928/Mds/2012 for the assessment year 2007-08.

2.The above appeals were admitted, on 25.11.2013, on the following substantial question of law:-

> "Whether on facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to claim depreciation on the assets, in the form of, application of income, even though the cost of purchase of asset was treated as application of income under Section 11 of the Act?"

3.Heard Mr.M.Swaminathan, learned Senior Standing Counsel assisted by Ms.V.Pushpa, learned Junior Standing Counsel for the appellant/Revenue; and Mr.A.S.Sriraman, learned counsel for Mr.S.Sridhar, learned counsel for the respondents/assessees.

4.The learned Senior Standing Counsel appearing for the Revenue fairly submits that the substantial question of law, which has been framed in these appeals, has been answered against the Revenue by the Hon'ble Supreme Court in CIT vs. Rajasthan and Gujarati Charitable Foundation reported in [2018] 402 ITR 441 (SC).

5.Following the same, these appeals stand dismissed and the substantial question of law is answered against the Revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

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

2.The Commissioner of Income Tax (Appeals)-XII,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

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

+1cc to Mr.S.Sridhar, Advocate, S.R.No. 72494

T.C.A.Nos.412 to 414 of 2013

PVS(CO)
GN(16/10/2019)