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.415 of 2013

The Commissioner of Income Tax, Chennai ...Appellant

Vs

M/s.The Educational Trust of Seventh Day Adventists, Chennai-40. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 06.7.2012 in ITA No.930/Mds/2012 on the file of the Income Tax Appellate Tribunal Madras 'A' Bench for the assessment year 2007-08, against the order of the Income Tax Officer (OSD) Exemptions 111, Chennai, dated 30/11/2009 made in PAN/GIR No.3628-E against the order of the Commissioner of Income Tax (Appeals) XII, Chennai-34, dated 22/02/2012 made in ITA No.295/2009-10.

For Appellant : Mr.J.Narayanasamy, SC

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 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?"

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial question of law framed is left open.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

To

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

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

3.The Income Tax Officer (OSD),
Exemption 111, Chennai.

+1cc to Mr.J.Narayanaswamy, Advocate sr.145
+1cc to Mr.S.Sridhar, Advocate Sr.367

TCA.No.415 of 2013

nm[co]
srg 04/02/2019