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.522 of 2013

The Commissioner of Income
Tax, Coimbatore ...Appellant

Vs

M/s.Coimbatore Welfare Association,
Coimbatore-2 ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 22.2.2013 in ITA No.1773/Mds/2012 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench for the assessment year 2009-10, against the order of the Additional Commissioner of Income Tax Range-1, Coimbatore, dated 1/12/2011 made in PAN AAATC1760F for the Assessment year 2009-2010 against the order of the Commissioner of Income Tax (Appeals)-1, Coimbatore dated 02/07/2012 made in Appeal No.165/11-12.

For Appellant : Mr.T.R.Senthilkumar, SSC

For Respondent : 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 19.8.2013 on the following substantial questions of law :

> "i. Whether, in law and in the facts and circumstances of the case, the Tribunal is right in

holding that depreciation is allowable as application of income on charitable objects ?

ii. 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 cost of purchase of asset was treated as application of income under Section 11? and

iii. Whether in law and in the facts and circumstances of the case, the Tribunal is right in holding that allowing the depreciation claim of the assessee would not result in double deduction, though the entire cost of depreciable assets have already been allowed as application of income towards objects of the trust? "

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial questions of law framed are left open.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

To

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

2.The Additional Commissioner of Income Tax Range-1,
63, Race Course Road,
Coimbatore 641 018.

3.The Commissioner of Income Tax (Appeal-I),
Coimbatore.

+1cc to Mr.S.Sridhar, Advocate Sr.366
+1cc to Mr.T.R.Senthilkumar, Advocate Sr.217

nm[co]
srg 04/02/2019