IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.8.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TAX CASE APPEAL NO.807 OF 2013

The Commissioner of Income Tax, Chennai ...Appellant/Respondent

Vs

M/s.Rajasthan Rajput Samaj Chennai, Chennai-3. ...Respondent/Appellant

APPEAL under Section 260-A of the Income Tax Act, 1961 against the order dated 23.12.2011 made in ITA.No.2011/Mds/2010 on the file of the Income Tax Appellate Tribunal Chennai 'A' Bench against the Order of the Director of Income Tax (Exemption), Chennai - 600 034 dated 29.09.2010 and made in DIT (E) No.2(1246) 09-10.

For Appellant : Mr.J.Narayanasamy, SSC

For Respondent: Served and no appearance

Judgment was delivered by T.S.Sivagnanam,J

This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for brevity, the Act) is directed against the order dated 23.12.2011 made in ITA.No.2011/Mds/2010 on the file of the Income Tax Appellate Tribunal Chennai 'A' Bench (for short, the Tribunal).

2. The appeal was admitted on 15.7.2014 on the following substantial questions of law:

> "i. Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee is eligible for registration under Section 12A ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that having religious objects by itself does not bar the trust from being recognized as public charitable trust? And
>
> iii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that

the provisions of Section 80G itself stipulate that 5% of the total receipt is to be held to be permissible towards religious activities as per Explanation of Section 80G (5B) would validate the claim of registration under Section 12AA when the object clause of the trust provides for promotion of religion?"

3. We have heard Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the appellant. Though the respondent was served and their name printed in the cause list, they did not choose to appear through a counsel.

4. After careful perusal of the order passed by the Tribunal, we find that the Tribunal adjudicated the factual issue and took note of the resolution by the respondent trust in deleting the clause in respect of short tours for the benefit of the society members and also acknowledgement for having filed the said amended resolution before the Registrar of Societies. Furthermore, the Tribunal also specifically stated that having religious objects by itself does not bar the trust from being recognized as a public charitable trust, as, under the provisions of Section 80G of the Act, 5% of the total receipts is held to be permissible for expenditure towards religious activities. In the light of the said finding rendered by the Tribunal, we are of the view that no substantial question of law arises for consideration in this appeal.

5. Accordingly, the above tax case appeal is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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

2.The Director of Income Tax (Exemptions),
Ayankar Bhawan, Annexe, III Floor,
No.121, MG.Road, Nungambakkam,
Chennai - 600 034

+1cc to Mr.J.Narayanaswamy, Advocate, SR.No.72218

TCA.No.807 of 2013

Kak(14/10/2019)