IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case (Appeal) Nos.673, 674, 677 and 678 of 2019

Principal Commissioner of Income Tax,
Central I,
No.108, Mahatma Gandhi Road,
Chennai-600 034. .. Appellant in all appeals

-vs-

M/s.Mailam Subramaniya Swamy Educational Trust,
No.54, Meenatchi Nagar, Poonthotam,
Villupuram-605 602 .. Respondent in all appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961, against the common order of the Income tax Appellate Tribunal, 'C' Bench, Chennai, dated 06.12.2018 made in ITA.No.2086, 2087, 2085 and 2088/Chny/2018 against the Order dated 02.04.2018 made in ITA Nos.370,113 to 115/17-18 on the file of the Commissioner of Income Tax (Appeals), 19(I/C), Chennai -34 and against the Order dated 30.12.2016 passed by the Assistant Commissioner of Income Tax, Central Circle-3 (3), Chennai for the Assessment Years 2009-10, 2010-11, 2011-12 and 2012-13 respectively.

For Appellant : Mr.T.R.Senthilkumar
Sr. Standing Counsel

COMMON JUDGMENT
(Delivered by The Hon'ble Acting Chief Justice)

These Tax Case Appeals have been filed by the Revenue, calling in question the correctness of the common order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 06.12.2018, for the Assessment Years 2010-11; 2011-12; 2009-10 and 2012-13 respectively by raising the following common substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that the assessing officer cannot initiate proceedings under Section 153A of the I.T. Act, where there was no incriminating material found during the course of search operation u/s.132 of the Act?

2.Whether on the facts and in the circumstances of the case, the ITAT was correct in law in placing reliance on SLP dismissal simpliciter in the case of PCIT v. Meeta Gutgutia (96 taxmann.com 468), when the issue of jurisdiction u/s.153A of the I.T. Act was not at all before the Hon'ble Supreme Court in the said SLP?

3.Whether on the facts and circumstances of the case, the Appellate Tribunal was justified in deciding the impugned issue on the basis of SLP (Special Leave Petition) dismissal simpliciter by the Hon'ble Supreme Court in the case of Meeta Gutgutia, without taking cognizance of the well settled ratio that SLP dismissal simpliciter has no binding effect, as laid down in the cases of CIT v. Geetha Ramakrishna Mills (P) Ltd. (288 ITR 489) (Mad.) and Kunhayammed v. State of Kerala (245 ITR 360)(SC)?"

2. When these matters are taken up for hearing, the learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In these cases, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeals filed by the Revenue are dismissed, as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs. Consequently, C.M.P.Nos.20305, 20308 and 20396 of 2019 are closed.

bbr

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
1. The Registrar,
   Income Tax Appellate Tribunal,
   Madras "C" Bench,
   Chennai.

2. The Commissioner of Income Tax (Appeals)-19,
   108, Mahatma Gandhi Road,
   Nungambakkam, Chennai-34.

3. The Assistant Commissioner of Income Tax,
   Central Circle 3(3), Chennai.

+1cc to Mr.T.R.Senthil Kumar, Advocate, SR.No.81966

T.C.(A) Nos.673, 674, 677 and 678 of 2019

Kak(05/11/2019)