IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2019

CORAM :

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

Tax Case Appeal Nos.132 to 134 of 2018
and
C.M.P.Nos.1772 and 1773 of 2018

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

-vs-

M/s.The All India Arya Vysya Samajam,
230, NSC Bose Road, Sowcarpet,
Chennai-600 079.
PAN : AAATT6166C ... Respondent in all Appeals

Appeals under Section 260A of the Income Tax Act, 1961 against the order dated 07.09.2016 made in I.T.A.Nos.1623 to 1625/Mds/2014 on the file of the Income Tax Appellate Tribunal 'B' Bench, Chennai for the assessment years 2009-10 to 2011-12 respectively, and against the Order passed by the Commissioner of Income Tax (Appeals)-VII, Chennai -34 dated 17/02/2014 made in ITA Nos.511/11-12, 236/12-13 and 1075/13-14 and against the Orders passed by the Joint Commissioner of Income Tax (OSD) (Excemptions)II, Chennai - 34, the Deputy Director of Income Tax (Excemptions)II, Chennai-34 made in PAN/GIN No.AAATT6166C dated 26/12/2011, 28/01/2013, 29/11/2013 for the Assessment Years 2009-10, 2010-11 and 2011-12, respectively.

For Appellant (In all appeals) : Mr.J.Narayanaswamy, Senior Standing Counsel

For Respondent (In all Appeals) : Mr.M.P.Senthil Kumar

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COMMON JUDGMENT

(Judgement of the Court was delivered by T.S.Sivagnanam, J.)

These appeals, by the appellant/Revenue filed under Section 260A of the Income-tax Act, 1961, are directed against the common order of the Income-tax Appellate Tribunal 'B' Bench, Chennai in I.T.A.Nos.1623 to 1625/Mds/2014 dated, 07.09.2016 for the assessment years 2009-10 to 2011-12.

2.The above appeals have been filed raising the following substantial questions of law:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is eligible to enjoy the benefit of exemption u/s 12 of the I.T.Act towards the receipt of Corpus Donation though the Hon'ble ITAT held the activities of the assessee as non-charitable as per the amended provisos to Section 2(15) of the I.T.Act?
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> (ii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that the assessee is eligible to enjoy the benefit of exemption u/s 12 of the I.T.Act towards the receipt of Corpus Donation, in contravention to provisions of section 13(8) inserted w.e.f 1.4.2009?"

3.Heard Mr.J.Narayanaswamy, learned Senior Standing Counsel for the appellant/Revenue; and Mr.M.P.Senthil Kumar, learned counsel for the respondent/assessee.

4.The learned Senior Standing Counsel for the Revenue submits that the appeals are not being pursued by the Revenue on account of low tax effect in the light of the Circular No.3 of 2018, dated 11.07.2018.

5.Thus, by applying the above Circular, these tax case appeals stand dismissed on the ground of low tax effect and the substantial questions of law, framed for consideration, are left open. The Revenue is at liberty to seek for restoration of appeals if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Joint Commissioner of Income-tax (OSD),
   (Exemptions)-II, Chennai.

2. The Commissioner of Income-tax (Appeals)-VII,
   Chennai-600 034.

3. The Income Tax Appellate Tribunal -B- Bench, Chennai.

4. The Commissioner of Income Tax, Chennai.

5. The Deputy Commissioner of Income Tax,
   (Excemptions)-II, i/c, Chennai - 34.

6. The Joint Commissioner of Income Tax,
   (Excemptions), Chennai.

+1 cc to Mr.J.Narayanasamy, SSC for Income
Tax Advocate, S.R.No.47723

T.C.A.Nos.132 to 134 of 2018

CA(CO)
SSM(14/08/2019)