IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.12.2019
CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
T.C.A.Nos.186 to 188 of 2018
and
C.M.P.Nos.3200 & 3201 of 2018

Commissioner of Income Tax,
Chennai. ... Appellant
(in all the appeals)

Vs

M/s.All India Skin & Hide Tanners
& Merchants Association,
43/53, Raja Muthiah Road,
Periamet, Chennai 600 003.
PAN: AAATA0492J ... Respondent
(in all the appeals)

PRAYER in TCA.No.186 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 23.09.2016 passed in ITA.No.1240/Mds/2016 This appeal preferred against the commissioner of Income Tax (Appeals)17, chennai 34.order dated 29.11.2006 made in ITA.No.37/CIT(A)-17/13-14,ITA.NO.38/CIT(A) 17/14-*15,ITA /CIT(A)17 15-16 for the Assessment Years 2010-11,2011-12,2012-13 and this appeal preferred against the Deputy Director of income Tax (Exemptions) II,(i/e) chennai order dated 18.03.2013 made in PAN: AAATA0492J order dated 11.03.2014 made in PAN AAATA0492J and order dated 19.03.2015 made in PAN: AAATA0492J for the Assessment year 2010-2011,2011-2012,2012-2013.

PRAYER in TCA.No.187 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 23.09.2016 passed in ITA.No.1241/Mds/2016.This appeal preferred against the commissioner of Income Tax (Appeals)17, chennai 34.order dated 29.11.2006 made in ITA.No.37/CIT(A)-17/13-14,ITA.NO.38/CIT(A) 17/14-*15,ITA /CIT(A)17 15-16 for the Assessment Years 2010-11,2011-12,2012-13 and this appeal preferred against the Deputy Director of income Tax (Exemptions) II,(i/e) chennai order dated 18.03.2013 made in PAN: AAATA0492J order dated 11.03.2014 made in PAN AAATA0492J and order dated 19.03.2015 made in PAN: AAATA0492J for the Assessment year 2010-2011,2011-2012,2012-2013.

PRAYER in TCA.No.188 of 2018: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 23.09.2016 passed in ITA.No.1242/Mds/2016.This appeal preferred against the commissioner of Income Tax (Appeals)17, chennai 34.order dated 29.11.2006 made in ITA.No.37/CIT(A)-17/13-14,ITA.NO.38/CIT(A) 17/14-*15,ITA /CIT(A)17 15-16 for the Assessment Years 2010-11,2011-12,2012-13 and this appeal preferred against the Deputy Director of income Tax (Exemptions) II,(i/e) chennai order dated 18.03.2013 made in PAN: AAATA0492J order dated 11.03.2014 made in PAN AAATA0492J and order dated 19.03.2015 made in PAN: AAATA0492J for the Assessment year 2010-2011,2011-2012,2012-2013.

For Appellant :Mr.J.Narayanaswamy (in all the appeals)
Senior standing counsel

COMMON JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

These Tax Case Appeals have been preferred by the Revenue against the order dated 23.09.2016 passed in ITA.No.1240 to 1242/Mds/2016 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment years 2010-11 to 2012-13.

2.The impugned order is filed by the Revenue aggrieved by the orders of the CIT(A), dated 29.01.2016 in ITA Nos.37, 38 & 11/CIT (A)-17/13-14/14-15/15-16 under Section 143(3) r.w.s 250 (6) of the Income Tax Act, 1961, where the Tribunal rejected the plea of the Revenue and dismissed the Appeals.

3.These Appeals are admitted on the following substantial question of law :

"(i)Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that the Society is eligible for exemption u/s.11 of the I.T.Act, in complete disregard to the facts of the case and the provisions of newly inserted provisos of Section 2(15) of the I.T. Act?

(ii)Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that the activities of the assessee society are governed under "principles of mutuality" even though the Society is registered u/s.12AA of the Income Tax Act as a "charitable entity" and has been claiming that status all along, more so when Kerala High Court in the case of M/s.Investors Club Trichur vs. CIT 318 ITR 427 (Ker.) has clearly held that a "charitable institution" cannot raise the "plea of mutuality"?

(iii)Whether on the facts and in the circumstances of the case and in law, the order of the Hon'ble ITAT was not against principle of "judicial consistency" in as much as it was passed in disregard of the findings of its earlier order in ITA No.2749, 2750 and 2751/Mds/1994 for A.Ys.1998-99, 1990-91 & 1991-92, where a clear finding had been given that the assessee's activities are in the nature of "advancement of objects of general public utility" and such decision had already reached finality?"

4.Mr.J.Narayanaswamy, learned Senior Standing Counsel appearing on behalf of the appellant would submit that the tax effect in these cases are less than Rs.1 crore and is covered by Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, Delhi. As per the said circular, the monetary limit to file an appeal before the High Court is fixed at Rs.1 crore. In these cases, tax effect is less than Rs.1 crore and therefore, these cases have to be dismissed.

5.This Court perused the circular dated 08.08.2019 and Paragraph No.2 of the said Circular, which prescribes monetary limit for filing appeal is usefully extracted as follows:

2.As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals / SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appeallate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

6.In view of the submissions made by the learned counsel appearing on behalf of the appellant and also in view of the Circular No.17/2019 dated 08.08.2019 issued by the Director, Central Board of Direct Taxes, Delhi, these Tax Case Appeals are dismissed on account of tax effect. However, the substantial questions of law framed is left open. In the event the tax effect is above the limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sai
To
1.THE COMMISSIONER OF INCOME TAX,
CHENNAI.

2.INCOME TAX APPELLATE TRIBUNAL 'B' BENCH,
CHENNAI.

3.THE DEPUTY DIRECTOR OF INCOME TAX (EXEMPTIONS) II,
(I/E) CHENNAI.
4.THE COMMISSIONER OF INCOME TAX (APPEALS)17, CHENNAI 34.

+1cc to Mr.J.Narayanaswamy , Advocate SR.No. 101293
T.C.A.Nos.186 to 188 of 2018

A.SK(30/01/2020)