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.524 of 2016

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

Vs

M/s.Sindhi Educational Society (Madras), Chennai-8. ...Respondent/Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 15.5.2015 in ITA No.981/Mds/2014 on the file of the Income Tax Appellate Tribunal Madras 'D' Bench for the assessment year 2010-11 and against the order of the Commissioner of Income Tax (Appeals)III, Chennai dated 03.03.2014 in I.T.A. No. 167/2012-2013 and against the order of the Assistant Director of Income Tax (Exemptions) IV, Chennai dated 05.02.2012 in PA/GIR No. AABTSO129B.

For Appellant : Mr.J.Narayanasamy, SSC
For Respondent : Mr.V.S.Jayakumar

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 27.7.2016 on the following substantial question of law :

> “Whether, on the 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 even though the cost of purchase of asset was already treated as application of income under Section 11 of the Income Tax Act ?”

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 In the light of the above, the appeal is dismissed as withdrawn and the substantial question of law framed is left open.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

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To
1. The Income Tax Appellate Tribunal, Madras 'D' Bench.

2. The Commissioner of Income Tax (Appeals)VII, Chennai.

3. The Assistant Director of Income Tax
(Exemptions)IV, Chennai.

+1 CC to Mr.J.Narayanasamy, Advocate sr 150.
+1 CC to Mr.V.S.Jayakumar, Advocate sr 232.

TCA.No.524 of 2016

KK(CO)
SP(07/02/2019)