IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

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

Tax Case Appeal Nos.692 to 694 of 2014

Commissioner of Income Tax,
Coimbatore. .. Appellant/Appellant in all Appeals

-vs-

M/s.CMS Educational and Charitable Trust,
Muniappan Kovil Thottam,
Coimbatore-641 006. .. Respondent/Respondent in T.C.A.No.692 of 2014

M/s.Bannariamman Educational Trust,
No.1212, Trichy Road,
Coimbatore-641 018. .. Respondent/Respondent in T.C.A.No.693 of 2014

M/s.Sakthi Foundation,
No.180, Race Course Road,
Coimbatore-641 018. .. Respondent/Respondent in T.C.A.No.694 of 2014

Appeals under Section 260A of the Income-tax Act, 1961 against the common order dated 17.04.2013, on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.2261, 2262 & 2263/Mds/2012 for the assessment year 2009-10 against the order dated 10/10/2012,19/10/2012,19/10/2012, and made in Appeal Nos.189/11-12,121/11-12 and 128/11-12 on the file of the Commissioner of Income Tax(Appeals)-I, Coimbatore and against the order dated 09/12/2011, 09/11/2011, and 28/10/2011 and made in PAN.Nos.AAATC4903A,AAATB1235C and AABTS4026M on the file of Income Tax Officer, Company Ward-I, Coimbatore.

For Appellant (In all Appeals) : Mr.T.R.Senthil Kumar, Senior Standing Counsel
: assisted by Ms.K.G.Usharani,

For Respondents (In all Appeals) : R.Venkatanarayana for Mr.T.N.Seetharaman.

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These appeals filed by the appellant/Revenue under Section 260A of the Income-tax Act, 1961, are directed against the common order dated 17.04.2013, passed by the Income Tax Appellate Tribunal 'A' Bench, Chennai in I.T.A.Nos.2261, 2262 & 2263/Mds/2012 for the assessment year 2009-10.

2.The above appeals were admitted, on 29.10.2014, on the following substantial questions of law:-

> "(i) Whether in law and in the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that depreciation is allowable as application of income on charitable objects?
>
> (ii) Whether on 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, in the form of application of income, even though cost of purchase of asset was treated as application of income under Section 11?
>
> (iii) Whether in law and in the facts and circumstances of the case, the Tribunal is right in holding that allowing the depreciation claim of the assessee would not result in double deduction, though the entire cost of the depreciable assets have already been allowed as application of income towards objects of the trust?"

3.Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the appellant/Revenue; and Mr.R.Venkatanarayana learned counsel for Mr.T.N.Seetharaman, learned counsel for the respondent/assessee.

4.The learned Senior Standing Counsel appearing for the Revenue fairly submits that the substantial questions of law, which have been framed in these appeals, have been answered against the Revenue by the Hon'ble Supreme Court in CIT vs. Rajasthan and Gujarati Charitable Foundation reported in [2018] 402 ITR 441 (SC).

5.Following the same, these appeals stand dismissed and the substantial questions of law are answered against the Revenue. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

abr

To

1.The Income Tax Officer,
Company Ward-I, Coimbatore.

2.The Commissioner of Income Tax (Appeals)-I,
Coimbatore.

3.The Income Tax Appellate Tribunal 'A' Bench, Chennai.

+1 cc to Mr.T.N.Seetharaman Advocate sr72483
+2 cc to M/s.Subbaraya Aiyar Advocate sr73380,73379

T.C.A.Nos.692 to 694 of 2014

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