IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.01.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case Appeal Nos.263, 264, 265, 266, 267 and 268 of 2010

The Commissioner of Income Tax-II
Coimbatore. ... Appellant in all the Appeals/Respondent

Vs.

M/s.Ootacamund Club, Club Road
PO Box No,19, Ootacamund
PAN No.AAACO6965F
... Respondent in all the Appeals/ Appellant

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 07.08.2009 in ITA Nos.505, 506, 507, 508, 509 and 510/Mds/2009, against the order passed by the Commissioner of Income Tax (Appeals) -1, Coimbatore, dated 03.02.2009 madein
Appeal.No.138/08-09,
Appeal No.139/08-09,
Appeal No.140/08-09,
Appeal No.141/08-09 and
Appeal No.142/08-09,
Appeal No.143/08-09 respectively

against the order passed by the Income Tax Officer, Ward 1(1) Ooty made in

PAN/GIR No.AAAC06965F, dated 31.10.2008
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PAN/GIR No.AAAC06965F, dated 31.10.2008
PAN/GIR No.AAAC06965F, dated 31.10.2008 (Respectively)

For Appellant :Mr.T.R.Senthil Kumar,
Senior Standing Counsel
Assisted by Ms.K.G.Usharani

For Respondent : Ms.M.Sumithra for Mr.R.Sivaraman

C O M M O N   J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI,J)

These Tax Case Appeals have been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, by raising the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that, the income from interest on investments with Banks is exempt from tax on the Principle of Mutuality is valid?
>
> (ii) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that, Mutuality Principles will apply to the facts of this case, even though that the receipts did not arise from any dealing between the assessee club and its members and the transactions were with third parties and were clearly tainted with commerciality?"

2. When the matter is taken up for final hearing, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 08.08.2019, 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 Crore (Rupees One Crore Only)

3. In the instant cases, the tax effect is said to be less than the monetary limit imposed and therefore, the appeals filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(AD I (MDU))

//True copy//

Sub Assistant Registrar

KST

To

1. The Commissioner of Income Tax,
   Coimbatore.

2. The Income Tax Appellate Tribunal,
   'D' Bench, Chennai.

3. The Commissioner of Income Tax
   (Appeals) 1, Coimbatore.

4. The Income Tax Officer,
   Ward 1(1), Ooty.

+1cc to Mr.T.R.Senthil Kumar, Advocate SR.No.2932

TCA Nos.263 to 268 of 2010

BS(CO)
GMY(17/06/2020)