IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE M.S.RAMESH

Tax Case (Appeal) No.479 of 2012

Commissioner of Income Tax
Central III, 121, M.G.Road,
Chennai 34 ... Appellant

vs

M/s.Vel Shri R.Rangarajan
Dr.Sagunthala Rangarajan
Educational Agency
Old no.24, New No.38
ABM Avenue, Chennai 600 028 ... Respondent

Appeal filed against the order of the Income Tax Appellate Tribunal Madras "C" Bench dated 07.06.2012 in ITA No.1935/MDS/2011 preferred against the ITA.No 329/10-11 dated 23.08.2011 on the file of the office of the Commissioner of Income tax(Appeals)-II, Chennai 34 filed against the Assessment under dated 31.12.2010 for the Assessment year 2006-2007 passed by the Assistant Commissioner of Income Tax Central Circle III (3) Chennai-34.

For Appellant : Mr.M.Swaminathan
Senior Standing counsel

For respondent : Mr.R.Sivaraman

JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras C Bench dated 07.06.2012 in ITA No.1935/MDS/2011, by raising the following substantial questions of law:

"1.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the addition under Section 69 by relying upon the order of the Hon'ble Supreme Court in the case of Sargam Cinema vs. CIT (2010) 328 ITR 513 and order of Hon'ble Madras High Court in the case of K.K.Sehaiyer vs. CIT (2000) 246 ITR 351 ?

2.Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the addition under Section 69 by not following the decision in the case of Indira Hospital Research and Diagnostic Centre vs. AICT reported in 208 Taxman 124?

3. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in deleting the addition made by the Assessing Officer towards interest when the assessee has not proved before the Assessing Officer that the funds advanced to trustees were out of surplus funds and not out of borrowed funds?"

2. When the matter is taken up for hearing, learned Standing Counsel brought to our notice the Circular issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8 August 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.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed as withdrawn, keeping open the substantial questions of law for determination in appropriate cases. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

tar

To

The Income Tax Appellate Tribunal Madras
"C" Bench,
Chennai

2.The Commissioner of Income Tax
Central II, Chennai-34

3.The Assistant Commissioner of Income Tax
Central Circle III(3)
Chennai 34

Tax Case (Appeal) No.479 of 2012

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