IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

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THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.Nos.386 & 387 of 2017

Commissioner of Income Tax,
Chennai. ... Appellant in both TCA

-Vs-

M/s.Tamilnadu Industrial Guidance &
Export Promotion Bureau,
19A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.
PAN: AACCT7538B ... Respondent in both TCA

Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench dated 27.11.2015 in I.T.A.Nos.2475 & 2476/Mds/2014 as against the order dated 11/07/2014 of the Commissioner of Income tax, Chennai in PAN No.AACCT7538B for the assessment year 2007-2008 and 2008-2009 in ITA.No.1161 & 1160/13-14 & as against the order dated 17/01/2014 for the assessment year 2007-2008 & 2008-2009.

For Appellant : Mr.J.Narayanaswamy,
Senior Standing Counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Judgment of the Court was delivered by Dr.Vineet Kothari,J)

The Court was held by Video Conference as per the Resolution of the Full Court dated 03 July 2020, by Judges at the respective residence and the counsel, staff of the Court appearing from their respective residences.

2. These appeals have been filed by the Revenue arising from the order dated 27.11.2015 passed by the learned Income Tax Appellate Tribunal Madras 'C' Bench for the Assessment Year 2007-08. The substantial question of law raised in these appeals is as under.

> "Whether on the facts and in the circumstances of the case the tribunal was right in holding that that the form 10 can be accepted by the assessing officer during the reassessment proceedings in contravention to the decision reported in 198 ITR 297(SC) when form 10 was not submitted along with the return and also even before the completion of original (assessment and thereby remitting the case for fresh assessment?"

3. The Tribunal, in its order dated 27.11.2015 has held as under.

> " 8.In view of the above decision of the Delhi High Court which is squarely applicable to the facts of the present case, the assessee can file Form NO.10 in the course of reassessment proceedings. Since the lower authorities have not considered Form NO.10 which was filed along with the return of income in response to notice under section 148 and completed the assessment denying exemption under section 11, we set aside the assessments for both the assessment years and restore the matters to the file of the Assessing Officer with a direction to make fresh assessments taking into consideration the Form NO.10 filed by the assessee along with the returns of income filed in response to the notice under section 148 of the Act, after providing adequate opportunity of being heard to the assessee.
>
> 9. The assessee raised one more ground in respect of addition made by the Assessing Officer with regard to corpus donation treating as income of the assessee. Since we have set aside the assessments for fresh consideration in view of the Form NO.10 filed by the assessee, we feel it appropriate to remit this issue also back to the file of the Assessing Officer who shall consider this issue afresh in accordance with law.
>
> 10. In the result, both the appeals of the assessee are allowed for statistical purposes."

4. The Tribunal in its impugned order has only remanded the case back to the Assessing Authority to take into consideration Form No.10 filed by the Assessee belatedly about the accumulation of income by the respondent Assessee, which is a Registered Society entitled to exemption under Section 11 of the Act subject to certain conditions.

5. Learned counsel for the respondent Assessee Mr.R.Sivaraman apprised the Court while relying upon the decision of the Coordinate Bench of this Court in the case of "Chandraprabhuji Maharaj Jain -vs- Deputy Commissioner of Income-tax, (Exemptions), Chennai" reported in [2019] 110 taxmann.com 11 (Madras) and submitted that in pursuance of the impugned remand order of the learned Tribunal dated 27.11.2015, the Assessing Authority has already granted the relief to the Assessee on the basis of the said Form No.10 filed belatedly by the Assessee vide his order dated 28.09.2016 for the Assessment Year 2007-08. He therefore submitted that the present appeals have rendered infructuous.

6. Having heard the learned counsel for the parties, we are of the opinion that even otherwise we are satisfied that against the impugned order of the learned Tribunal, no question of law arises for our consideration under Section 260A of the Act, since a Coordinate Bench has already held that Form No.10 filed belatedly could be taken into account by the Assessing Officer and has remanded the case back to the Assessing Authority in the case of "Chandraprabhuji Maharaj Jain -vs- Deputy Commissioner of Income-tax, (Exemptions), Chennai" reported in [2019] 110 taxmann.com 11 (Madras) . Therefore, we are of the opinion that the learned Assessing Authority has rightly taken into account the Form No.10 filed by the Assessee in the present case albeit belatedly and has granted the desired relief to the respondent Assessee, which is a Government Company incorporated for promotion of Industrial Development in the State.

7. In view of this, we do not find any merit in the present appeals filed by the Revenue, which in our opinion, have rendered infructuous. The appeals are disposed of as such, without requiring us to answer the question of law in the matter. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.Income Tax Appellate Tribunal,
Madras 'C' Bench

2.The Commissioner of Income Tax,
Chennai

T.C.A.Nos.386 & 387 of 2017

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