IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.03.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.Nos.405 & 406 of 2011

The Commissioner of Income Tax - 1,
Coimbatore. ... Appellant in both TCAs

Vs.

M/s.Coimbatore Stock Exchange Ltd.,
683-686 Trichy Road, Singanallur,
Coimbatore - 641 005. ... Respondent in both TCAs

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "D" Bench, dated 08.02.2011 in I.TA.Nos.1086 & 1087/Mds/2010 for the assessment year 2005-06 & 2006-07 and against the order of the Commissioner of Income Tax (Appeals)-1, Coimbatore, dated 28.04.2010 in Appeal No.157/09-10 & 158/09-10 for the Assessment Year 2005-2006 & 2006-07 and against the order of the Assistant Commissioner of Income Tax Company Circle-I(3), Coimbatore, dated 14/12/2009 in PAN.No.AAACC8424H respectivley for the Assessment Year 2005-06 & 2006-07.

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

For Respondent : Mr.M.Kaushik
for M/s.A.S.Sriraman

COMMON JUDGMENT

(Judgment was delivered by M.DURAISWAMY, J.)

Challenging the orders passed in I.TA.Nos.1086 & 1087/Mds/2010 for the assessment years 2005-06 & 2006-07 on the file of the Income Tax Appellate Tribunal, Chennai, "D" Bench, the Revenue has filed the above appeals.

2.The above appeals were admitted on the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that depreciation claimed by the assessee, who is claiming exemption under Section 11 of the Act is allowable on the fixed asset (the cost of the capital asset) acquired for charitable purposes as if so allowed it would amount to double deduction, which cannot be the intention of the legislature?"

3.When the appeals are taken up for hearing, Mr.J.Narayanasamy, learned senior standing counsel appearing for the appellant - Revenue fairly submitted the substantial questions of law which has 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)*. Further, the learned Senior Standing Counsel submitted that following the judgment of the Hon'ble Supreme Court, this Bench, by its judgment dated *26.02.2021* in *T.C.A.Nos.343 to 345 & 347 of 2014 [Commissioner of Income Tax, Trichy Vs. M/s.National College Council, Teppakulam, Tiruchirapalli - 620 002]* and the Hon'ble Division Bench in its judgment dated *26.08.2019* in *T.C.A.Nos.680 & 681 of 2011 [Commissioner of Income Tax - I, Tiruchirapalli Vs. M/s.National College Council, P.B.No.369, Chatram Bus Stand, Teppakulam, Tiruchirapalli - 620 002]* dismissed the appeals and answered the substantial questions of law against the Revenue.

4.Following the judgment of the Hon'ble Supreme Court reported in *[2018] 402 ITR 441 (SC)* and the judgments of the Division Bench of this Court made in *T.C.A.Nos.343 to 345 & 347 of 2014* and *T.C.A.Nos.680 & 681 of 2011*, the substantial question of law is answered against the revenue and the appeals are dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1.The Income Tax Appellate Tribunal,
Chennai, "D" Bench

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

3.The Assistant Commissioner of Income Tax
Company Circle-I(3),
Coimbatore.

NR(CO)
KM(21/04/2021)