IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.1.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tax Case Appeal No.526 of 2018

M/s.FRP Institute, Chennai-97 ...Appellant

Vs

The Commissioner of Income Tax
(Exemptions), Chennai ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 20.3.2017 passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai made in I.T.A.No.1385/Mds/2015 for the assessment year 2011-12 and against the order dated 30.06.2014 made in ITA NO.1141/13-14 on the file of the Commissioner of Income Tax (Appeals)-VII Chennai-34 for the Assessment year 2011-2012 against the order date 31.12.2013 made in PAN NO.AAATF1026B on the file of the Deputy Director of Income Tax(Exemptions)-III Chennai for the assessment year 2011-2012.

For Appellant: Mr.T.Vasudevan
For Respondent: Mr.J.Narayanaswamy, SSC

Judgment was delivered by T.S.SIVAGNANAM,J

This appeal has been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the order dated 20.3.2017 made in I.T.A.No.1385/Mds/2015 on the file of the Income Tax Appellate Tribunal, Chennai, 'C' Bench ('the Tribunal' for brevity) for the assessment year 2011-12.

2. The appeal was admitted on 19.12.2018 on the following substantial questions of law:

> "i. Whether the Tribunal was right in denying the exemption under Section 11 of the Act on the ground that the assessee existed not for charitable purpose within the meaning of Section 2(15) of the Act ?

ii. Whether the Tribunal was right in denying the exemption under Section 11 merely because there was surplus of income over expenditure ?

iii. Whether the Tribunal is right in law in holding that there is no educational activity by the assessee without taking into consideration that the assessee imparts education and training in the field of fibre reinforced plastics to various institutions and industry? And

iv. Whether the Tribunal was right in concluding that the assessee is engaged in trade and commerce and comes within the Fourth Proviso to Section 2(15) without adverting to the predominant nature of activity of the assessee ?”

3. We have heard Mr.T.Vasudevan, learned counsel appearing for the appellant/assessee and Mr.J.Narayanaswamy, learned Senior Standing Counsel appearing for the respondent/Revenue.

4. The learned counsel on behalf of the appellant/assessee submits that the appellant/assessee already filed the declaration/ undertaking under the Vivad Se Vishwas Scheme on 30.12.2020 and is awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the Competent Authority shall process the application/declaration in accordance with the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) and pass appropriate orders as expeditiously as possible. The assessee is given liberty to restore this appeal in the event the ultimate decision to be taken on the declaration filed by the assessee under Section 4 of the said Act is not in favour of the assessee. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeal and on such request made by the assessee by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeal stands disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Income Tax Appellate Tribunal, 'C' Bench, Chennai.
2.The Commissioner of Income Tax (Exemptions), Chennai.
3.The Deputy Director of Income Tax(Exmptions)-III
Chennai.
4.The Commissioner of Income Tax(Appeals)-III,
Chennai-38.

TCA.No.526 of 2018

gmr(CO)
rv(04/02/2021)