IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal Nos.74 to 79 of 2018
and
C.M.P.Nos.21295, 21297, 21298, 21299, 21301 & 21303 of 2019

M/s.Ramanaidu Charitable Trust,
No.15, A Block, Prince Villa,
Rajamanar Street, T.Nagar,
Chennai - 600 017. ...Appellant in all cases

Vs

The Income Tax Officer (Exemptions),
Ward-4, Ayakar Bhavan,
Annexe Building, 3rd Floor,
121, M.G.Road, Numgambakkam,
Chennai - 600 034. ...Respondent in all cases

COMMON PRAYER: Appeals under Section 260A of the Income Tax Act, 1961 against the common order dated 28.04.2017 made in ITA.Nos.917 to 922/Mds/2015 for the assessment years 2005-06 to 2010-11 on the file of the Income Tax Appellate Tribunal, 'C' Bench, Chennai. Appeal against the orders of Commissioner of Income Tax (Appeals)-17, Chennai-34, dated 22.12.2014 in ITA:No.454; 475/11-12 & 240-243/13-14; and Assistant Director of Income Tax (Exemptions)-IV, Chennai-34, dated 26.11.2012 in AAATR0554J/2008-09 – dated 20.06.2011 in PAN AAATR0554/4656-R/2007-08, dated 26.02.2013 in AAATR0554J/2006-07; dated 26.11.2012 in AAATR0554J/2006-07, dated 26.11.2012 in AAATR0554J/2005-06; and arising out of the Assessment order's of Assistant Director of Income Tax (Exemption's) IV, Chennai.
dated 26.03.2013 in PAN/GIR.No.AAATR0554J,
dated 29.12.2011 in PAN/GIR.No.AAATR0554J,
dated 26.03.2013 in PAN/GIR.No.AAATR0554J,
dated 29.12.2011 in PAN/GIR.No.AAATR0554J,
dated 26.03.2013 in PAN/GIR.No.AAATR0554J, and
dated 26.03.2013 in PAN/GIR.No.AAATR0554J,

For Appellant : Mr.Vikash
for Mr.M.Muralidhara Reddy
For Respondent: Mr.J.Narayanasamy, SSC

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam,J)

These appeals have been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the common order dated 28.04.2017 made in ITA.Nos.917 to 922/Mds/2015 for the assessment years 2005-06 to 2010-11 on the file of the Income Tax Appellate Tribunal, 'C' Bench, Chennai ('the Tribunal' for brevity).

2. The appellant in all these appeals has raised the following substantial questions of law for consideration:

> "1. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the Appellant Trust is not entitled for the benefit under Section 11 even though there is no undue benefit to a person referred to in Section 13(3) of the Income Tax Act, 1961?
>
> 2. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the Appellant is not entitled for the benefit even though there is no violation of Section 13 and when the entire cost of production of the film is eligible for deduction in the hands of the donor under Rule 9 of the Income Tax Rules?
>
> 3. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the amendment to Section 2(15) is not applicable to assessment years 2005-06 to 2010-11 when the amendment itself is effective from 01.04.2009?
>
> 4. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the Appellant is not entitled for the benefit in terms of the proviso to Section 2(15) even though nowhere in the assessment proceedings the said proviso was invoked?
>
> 5. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that re-opening of Assessment under Section 148 is valid in respect of Assessment year 2005-06 to 2010-11 without intimation under Section 143(1) of the Income Tax Act, 1961?

5. Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that re-opening under Section 148 of the Income Tax Act, 1961 can be made for mere change of opinion without any material facts?"

3. We have heard Mr.Vikash appearing for Mr.M.Muralidhara Reddy, learned counsel for the appellant-assessee and Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the respondent-Revenue.

4. The learned counsel for the appellant-assessee submits that the appellant-assessee has already filed the declaration/undertaking under the Vivad Se Vishwas Scheme 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 these appeals 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 appeals 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 appeals are disposed of with the aforementioned liberty and the substantial questions of law framed are left open. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

hvk

To
1. The Income Tax Appellate Tribunal,
'C' Bench, Chennai.

2. The Income Tax Officer (Exemptions),
Ward-4, Ayakar Bhavan,
Annexe Building, 3rd Floor,
121, M.G.Road, Numgambakkam,
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)-VII,
121, M.G.Road, Nungambakkam, Chennai-34.

4. The Assistant Director of Income Tax (Exemptions)-IV,
3rd Floor, Annexe Building, 121, M.G.Road, Chennai-34.

5. The Deputy Director of Income Tax (Exemptions)-IV
3rd Floor, Annexe Building, 121, M.G.Road, Chennai-34.

6. The Assistant Registrar, Income Tax Appellate Tribunal,
IIIrd Floor, Balaji Bhavan, Besant Nagar, Chennai-90.

+6ccs to M/s.Muralidhara Reddy,Advocate,
SR No. 16438,16439, 16440,16441,16436,16437

TCA.Nos.74 to 79 of 2018
and
C.M.P.Nos.21295, 21297, 21298,
21299, 21301 & 21303 of 2019

SR II(CO)
B.VC (03/08/2021)