IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

TCA.NO.310 OF 2012

The Commissioner of Income Tax IV,
121, M.G.Road, Chennai 600 034.

... Appellant/
Appellant

Vs

M/s. Mamallan Educational Trust,
No.29, Ganapathy Street,
Royapettah, Chennai 600 014.

... Respondent/
Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, "B" Bench, Chennai, dated 10.05.2012 in I.TA.No.456/Mds/2012.

Against the order of the Commissioner of Income Tax (Appeals)-1, Chennai, dated 08.12.2011 and made in ITA.No.249/2008-2009 for the assessment year 2007-2008 and against the order of the Deputy Commissioner of Income Tax, Central Circle-1(3), Chennai, dated 30.12.2008 and made in PA/GI.No.AABTM1887E for the assessment year 2007-2008.

For Appellant	:	Mr.J.Narayanaswamy Senior Standing Counsel
For Respondent	:	Mr.R.Natarajan

JUDGMENT

(Judgment of the Court was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 10.05.2012 passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, in I.T.A.No.456/Mds/2012, relating to the assessment year 2007-2008.

2. By order dated 19.10.2012, this court admitted the aforesaid tax case appeal on the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that advance of Rs.77,93,000/- to M/s.Sivaraja Ramalinga Trust is not hit by Section 13 (1) (c) read with Section 13(3) of the Income Tax Act?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that M/s.Sivaraja Ramalinga Trust is not a concern mentioned in clause (e) of sub-section (3) of Section 13 of the Income Tax Act?"

3.When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeal 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). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4.In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal,
   "B" Bench, Chennai,

2. The Commissioner of Income Tax IV,
   121, M.G.Road, Chennai 600 034.

3. The Assistant Commissioner of Income Tax,
   Central Circle I (3), Chennai - 600 034.

4. The Commissioner of Income Tax (Appeals),
   Chennai.

5. The Deputy Commissioner of Income Tax,
   Central Circle I (3), Chennai.

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SSD(CO)
PM/05/04/2022