IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.265 of 2015

M/s.Sadras Venkatarama Chetty's Charities
No.1, Audiappa Naicken Street
Chennai 600 001. ... Appellant

Vs.

The Deputy Commissioner of Income Tax
(Exemptions) II, Chennai-34. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 16.04.2012 passed by the Income Tax Appellate Tribunal in ITA No.2075/Mds/2011.

For Appellant : Mr.G.Ashokapathy for M/s.PASS Associates
For Respondent : Mrs.V.Pushpa
Senior Standing Counsel

JUDGMENT

(Delivered by C.SARAVANAN, J.)

The assessee is on appeal against the order dated 16.04.2012 passed by the Income Tax Appellate Tribunal in I.T.A.No.2075/Mds/2011 for the Assessment Year 2002-03.

2. By the impugned order, the Tribunal has remitted the case back to the Assessing Officer for re-examination of the issue afresh. The relevant portion of the impugned order reads as under:

> " *17. In the circumstances, we set aside the orders of lower authorities and remit the issue to the Assessing Officer to examine this issue afresh as per our above observations, in accordance with law, after providing adequate opportunity of being heard to the assessee.*
>
> *18. Since we are setting aside the issue of allowance of exemption under Section 11 r.w. Section 12A to the file of the Assessing Officer to examine afresh, the other grounds of appeal raised by the assessee becomes academic and therefore no need for adjudication by us. We, therefore set aside the other grounds of appeal other than the ground raised against reopening of assessment under Section 147 to the file of the Assessing Officer to decide afresh in accordance with law.*"

3. The issue raised in this tax case appeal has already been decided by the Hon'ble Supreme Court in **Assistant Commissioner of Income Tax (Exemptions) -vs- Ahmedabad Urban Development Authority [2022] 143 taxmann.com 278 (SC).** Incidentally, the Supreme Court also held that the issue has to be decided afresh and assessment has to be reopened.

4. Following the ratio laid down in the aforesaid decision of the Hon'ble Supreme Court, this Tax Case Appeal is dismissed, leaving open all the issues to be canvassed before the assessing officer. No costs.

(R.S.K.,J.) **(C.S.N.,J.)**
27.08.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Income Tax Appellate Tribunal
'D' Bench, Chennai.

R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.

KST

T.C.A.No.265 of 2015

27.08.2024