IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.01.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE R.KARUPPIAH

T.C.A. NO. 422 OF 2013

Director of Income Tax (Exemptions)
Chennai - 34. .. Appellant

- Vs -

M/s.Ravi Rajasimhan Charitable Trust
9, II Cross Street, Elango Nagar
Virugambakkam
Chennai 600 092. ... Respondent

Appeal under Section 260A of the Income Tax Act against the order dated 6.2.13 passed by the Income Tax Appellate Tribunal 'B' Bench, Chennai, made in I.T.A. No.19/Mds/2013.

against the order of the Director of Income Tax (Exemptions) Aayakar Bhavan Annexe III Floor, No.121 M.G. Road, Nungambakkam Chennai- 600 034 in DIT (E) No.2 (158) /12-13 dated 26.11.2012.

For Appellant : Mr. J.Narayanasamy
Standing counsel for Income Tax

For Respondent : Mr. N.Devanathan

JUDGMENT

(DELIVERED BY R.SUDHAKAR, J.)

This Tax Case (Appeal) is filed by the Revenue as against the order of the Income Tax Appellate Tribunal raising 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 holding that assessee is entitled for registration under Section 12AA?"

2. The issue involved in the present case is whether the trust on its inception would be disentitled to the benefit of registration under Section 12AA of the Income Tax Act on the ground that the activities of the Trust has just started. The Trust was created on 2.4.12 only and they applied for registration on 28.5.12.

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3. Learned counsel appearing for the Revenue fairly submits that the issue involved in this appeal is covered by a decision of this Court in T.C.(A)No.579 of 2013 dated 27.01.2014, wherein this Court, following the decision of this Court reported in (2012) 206 Taxman 69 (CIT – Vs - Arulmighu Sri Kamatchi Amman Trust), dismissed the appeal filed by the Revenue holding that the Revenue would not be justified in refusing the grant of registration at the threshold. For better clarity, the relevant portion of the decision of this Court reads as follows:

> "9. In the present case also, the Revenue only questions the trust not having commenced its activity for the grant of registration. The provision under Section 12AA of the Income Tax Act does not stipulate such a condition for grant of registration. On the other hand, Section 12AA (1) contemplates satisfaction of the Commissioner about the objects of the Trust and the genuineness of the activities and make such enquiry as may be necessary for the purpose of grant of registration. In so considering the application, the Commissioner has to give an opportunity to the assessee as provided for under proviso to sub-section (1) of Section 12AA. Under sub-section (3) of Section 12AA, the Commissioner is given power to cancel the registration, if he satisfies that the objects of such trust are not genuine or not being carried on in accordance with the objects of the trust. When such an authority is vested with the Commissioner to cancel the registration in the event of the trust not being carried on in accordance with the objects of the trust, we do not find any ground to say that merely on the date of the application, the assessee trust had not commenced its activities, hence, registration could not be granted. It is not denied by the assessee that on the date of the application under Section 12AA, it was yet to commence its operation. But nevertheless the genuineness of the objects of the trust were not questioned by the Commissioner. Considering the fact that the continuance of registration is further a subject matter of scrutiny by the Commissioner as contemplated under Section 12AA (3) of the Income Tax Act, we do not think that the Revenue would be justified in refusing the registration at the threshold. The Tribunal had followed the decision of the Gujarat High Court in the case of CIT V. Kutchi Dasa Oswal Moto Pariwar Ambama Trust reported in 29 Taxman 228. We respectfully agree with the decision of the Gujarat High Court."

The abovesaid view has been consistently followed by this Court in a number of decisions, one of which being Director of Income Tax Exemptions – Vs – Seervi Samaj Tambaram Trust (362 ITR 199 (Mad)). The above-said view was followed by this Court, in

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which one of us was a party (R.Sudhakar, J.) in T.C. (A) No.261 of 2014 dated 22.8.2014.

5. Accordingly, following the decision of this Court in T.C. (A) No.579 of 2013 dated 27.01.2014, and in view of the consistent view of this Court, this Tax Case (Appeal) stands dismissed. The substantial question of law is answered against the Revenue. However, there shall be no order as to costs.

Sd/-
Asst.Registrar (J )

/true copy/

Sub Asst. Registrar

GLN

To

1. Director of Income Tax (Exemptions)
Aayakar Bhavan
Annexe III Floor
Chennai - 34.

2. The Assistant Registrar
Income Tax Appellate Tribunal
'B' Bench Sastri Bhavan
Chennai.

1 cc to Mr.J. Narayanaswamy, Advocate, SR. 2453
1 cc to Mr.N. Devanathan, Advocate Sr. 1655

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TEJ (CO)
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