IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION NO.43444 OF 2002

The South Arcot Diocesan Corporation,
rep. by its Secretary,
Fr.A.J.Philomindoss. ... Petitioner

Vs.

Agricultural Income- Tax Officer,
Yercaud. ... Respondent

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records, relating to the notice in Na.Ka.No.386 of 2001, dated 06.09.2002, together with the Annexure, dated 19.08.2002, issued by the respondent and to quash the same and consequently, to direct the respondent to exempt the petitioner from taxation under the Tamil Nadu Agricultural Income Tax Act.

For Petitioner : Mr.R.Hariharan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

The prayer in the Writ Petition is for issuance of Writ of Certiorarified Mandamus, to quash the notice, bearing Na.Ka.No.386 of 2001, dated 06.09.2002, together with the Annexure, dated 19.08.2002, issued by the respondent, and consequently, to direct the respondent to exempt the petitioner from taxation, as per the provisions contemplated under the Tamil Nadu Agricultural Income Tax Act.

2. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition, is as follows:-

i) The petitioner herein is a Trust, named "South Arcot Diocesan Corporation", registered under Section 12 (A) (a) of the Indian Income Tax Act. Though the petitioner-Trust owns certain properties coming under the jurisdiction of the respondent, since it has been functioning for religious and charitable purposes, it has been granted the benefits of exemption from tax, available to a Religious and Charitable Trust, as per the provisions contemplated under the Tamil Nadu Agricultural Income Tax Act, till 2002. While that being so, the petitioner was issued with a notice, dated 19.08.2002, wherein, the respondent has stated that the petitioner can no longer claim the exemption under Section 4 of the Tamil Nadu Agricultural Income Tax Act. Subsequently, the petitioner was issued with a demand notice, dated 06.09.2002. Challenging the notice, dated 19.08.2002, as well as the demand notice, dated 06.09.2002, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner has submitted that the impugned notices, dated 19.08.2002 and 06.09.2002 have been issued in violation of the principles of natural justice and contrary to the law laid down by the Hon'ble Division of this Court, in Tax Case (Revision) No.140 of 1994, dated 09.01.1998.

4. The learned Additional Government Pleader appearing for the respondent, on the other hand, has submitted that by the impugned notice, dated 06.09.2002, the respondent/Assessing Authority has sought for certain documents to be produced by the petitioner, but, the petitioner, without producing the documents, has straightaway approached this Court, challenging the said notice, dated 06.09.2002.

5. Heard both sides and perused the records.

6. It is the claim of the petitioner that the exemption from taxation under the I.T. Act had already been granted by the authorities, treating the petitioner as a religious trust. Hence, the exemption under the Agricultural Income Tax Act, is automatic and the authorities cannot suddenly deny the exemption. On perusal of the impugned notice, it is ascertained that the authorities sought for certain particulars so as to decide the eligibility of the petitioner for the current assessment year, since the petitioner is not complying certain conditions to claim exemption. Hence, nothing can prevent the petitioner to produce the required documents, as directed by the respondent, so as to prove their claim of exemption.

7. In view of the above facts and circumstances of the case, this Writ Petition is disposed of by directing the petitioner to produce all the required documents, as sought for by the respondent, in the notice, dated 06.09.2002, within two weeks from the date of receipt of this order. As and when such documents are produced by the petitioner, the respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of four weeks thereafter, by granting opportunity of personal hearing to the petitioner. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sd

To

The Agricultural Income- Tax Officer,
Yercaud.

+1cc to M/s.Suha Rammman, Advocate, S.R.No.62470

+1cc to the Special Government Pleader, S.R.No.62792

ctk(CO)
EU(/06/2015)