IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.651 of 2009

The Commissioner of Income Tax
Trichy II. ...Appellant/Respondent

Vs.

M/s. Tiruchirappalli Regional Engineering College
Scientific & Technology Entrepreneur Park
NIIT Post, Thuvakudy
Trichy 620 015. ...Respondent /Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'D' Bench dated 24.10.2008 made in ITA No.221/Mds/2008 preferred against the order of the Commissioner of Income Tax-II, Tiruchirapalli dated 29.11.07 made in C.No.7162E(28)/07-08/C.I.T.-II/TRY.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent : Mr.A.S.Sriraman
For Mr.Sridhar

J U D G M E N T
(Delivered by Dr.Anita Sumanth,J)

This Tax Case (Appeal) has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal dated 24.10.2008, raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee society should be granted registration with effect from

01.4.2001 when the society was formed on 21.3.1986 and the application for registration which was filed on 21.5.2007 after a delay of 21 years?

(ii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the registration to the assessee society under Section 12AA should be granted from 01.4.2001 overlooking the fact that the Commissioner of Income Tax has rejected the explanation for the delay after due application of mind and has granted registration from 01.4.2007 under Proviso (ii) to section 12A(a) of the Act? and

(iii) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that registration should be granted from 01.4.2001 overlooking the absence of any legal provision enabling the granting of registration from an intervening date between the date of formation and the date of application?"

2. The respondent is the Tiruchirapalli Regional Engineering College a reputed Government Engineering College. The controversy revolves around the claim for registration under Section 12A of the Income Tax Act (in short 'Act'). The Institute, though established on 21.3.1986, applied for registration in terms of Section 12A only on 21.5.2007. By order dated 29.11.2007, the Commissioner of Income Tax (in short 'CIT') granted registration, however, only with effect from 01.4.2007.

3. According to him, the assessee had not satisfactorily explained the reasons for non seeking of registration for a long period of 21 years as the sole justification for the delay was only that the concerned official had been ignorant of the requirement for a specific registration for tax benefit.

4. The assessee appealed against the order of the CIT before the Income Tax Appellate Tribunal. The Tribunal, while considering the question whether registration ought to have been granted with effect from the date of creation of Institute, being 21.3.1986, or from the date of grant of registration by Commissioner of Income Tax being 01.4.2007, proceeded to condone the delay for a period of six years and directed the Commissioner to grant registration with effect from 01.4.2001.

5. At the threshold, we may state that the assessee, as admitted by both learned counsel, is enjoying the benefit of Registration in terms of section 12A of the Act as on date. We

are thus of the view that the present appeal and the questions raised are academic today. Nothing turns upon the resolution thereof, at this distance of time. We are thus, not inclined to answer the questions raised and return the same unanswered.

6. This appeal is disposed of as above. No costs.

kpl/sl

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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

2. The Commissioner of Income Tax-II,
   Tiruchirapalli - 620 001.

3. The Assistant Commissioner of Income Tax,
   Trichy - 620 001.

+1CC To Mr.J.Narayanaswamy, Advocate, SR.NO.85975

TCA No.651 of 2009

RSI(CO)
Kak(06/03/2019)