IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) No.463 of 2011

The Commissioner of Income-tax-I,
Madurai. ... Appellant/Respondent

-vs-

Elshadai Charitable Trust,
Plot No.11, Kaliamman Kovil East Street,
Vagaikulam(Utkadai),
Ramanathapuram,
Madurai - 625 018. ... Respondent/Appellant

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai 'B' Bench, Chennai, dated 29.04.2011 in ITA No.1756/Mds/2010 for the assessment year Nil as against the order of the Commissioner of Income Tax-I, dated 25.02.2010 in C.No.464/171/2006-07/CIT-I.

For Appellant : Mr.Karthik Ranganathan,
Standing Counsel

For Respondent : No appearance

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This Tax Case Appeal, filed by the Revenue under Section 260-A of the Income Tax Act, 1961, (hereinafter referred to as "the Act") is directed against the order passed by the Income Tax Appellate Tribunal Chennai 'B' Bench, Chennai, ("the Tribunal" for brevity) dated 29.04.2011, in ITA No.1756/Mds/2010, for the assessment year Nil.

2.Heard Mr.Karthik Ranganathan, learned Standing Counsel, for the appellant.

3.This appeal has been admitted on 03.01.2012, on the following substantial question of law:

> "(i) Whether, on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the trust is carrying on Charitable activities for running a home for Orphans and Widows without producing a Certificate issued by the Orphanages and other Charitable Homes (Supervision and Control) Act, 1960, is valid?”

4.The Commissioner of Income Tax-I, Madurai, by order dated 25.02.2010, rejected an application filed by the assessee for renewal of approval under Section 80G of the Act against which, the assessee filed appeal before the Tribunal, which was allowed.

5.The Revenue is on appeal before us challenging the said order of the Tribunal. Admittedly, the respondent/Trust was granted registration under Section 12AA of the Act on 16.03.2007, and also approval under Section 80G of the Act on the very same day, which was valid till 31.03.2008. When they applied for renewal, the same has been rejected. The remand report, which was called for from the Assessing Officer mentions about the objects of the Trust. There was no material to show that the trust was not carrying on charitable activity, but the renewal application was rejected on the technical ground that registration had not been obtained under the provisions of the Orphanages and other Charitable Homes (Supervision and Control) Act, 1960.

6.In our considered view, merely because registration was not obtained under the Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960 will not ipso facto result in a conclusion that the assessee is not carrying on charitable activity. Therefore, we find no error in the order passed by the Tribunal.

7.Thus, for the above reason, the appeal filed by the

Revenue is dismissed and the substantial question of law is answered against the Revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrm/abr

To

1. The Income Tax Appellate Tribunal Chennai 'B' Bench.

2. The Commissioner of Income Tax-I, Madurai.

+1 cc to Mr.Karthik Ranganathan, Advocate Sr.No.84150

T.C.A.No.463 of 2011

SVI(CO)
CSL/09.01.2019