IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

T.C.A.No.955 of 2018

K.T.A. & G.R.S. Educational Trust.
18-A, Kattur Village,
Pudupet Post, Tirupattur,
Pin 635 541. ...Appellant

Vs.

Director of Income Tax(Exemptions)
Chennai 600 034 ...Respondent

Prayer: Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'C' Bench dated 19.12.2014 in ITA No.2164/MDS/2013 against the order of the Director of Income Tax (Exemptions), Chennai dated 30.09.2013 in DIT(E) No.2 (935)/12-13 against the application dated 30.05.2007 filed by the Trustee before, The Commissioner of Income Tax (Exemptions), Chennai, Tamil Nadu.

For Appellant : Ms.Pushya Sitaraman
Senior Counsel
For Mr.Arun Korian Joseph

For Respondent: Mr.J.Narayansamy
Senior Standing Counsel

J U D G M E N T

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

This appeal filed by the appellant under Section 260A of the Income Tax Act, 1961 (for brevity the "Act"), is directed against the order passed by the Income Tax Appellate Tribunal Madras 'C' Bench in I.T.A.No. 2164/MDS/2013 dated 19.12.2014 raising the following Substantial Questions of Law:

> "1. Whether the Tribunal was right in holding that the registration was rightly granted from Assessment year 2014-15 when the original application for registration was filed on 30.05.2007?
>
> 2. Whether the Tribunal was right in holding that the registration cannot be granted with effect from the date of the original application as no appeal had been filed regarding non processing of that application, when no appealable order had been passed by the respondent?
>
> 3. Whether the Tribunal was right in upholding the registration from assessment year 2014-15 even though it is not disputed that the appellant had all along been carrying out its object of education even during earlier years?"

2. The issue which falls for consideration is whether the appellant is entitled for registration under Section 12AA of the Act with effect from 30.05.2007, the date on which they made application for registration before the respondent.

3. The learned Senior Counsel for the appellant would contend that the appellant is an educational trust functioning in the most backward area in Vellore District and formed with an object to run educational institutions and at present, it is running an educational institution under the name and style of Bharathidasan Engineering College at Natrampalli, Tirupathur Taluk, Vellore District.

4. The appellant filed an application before the respondent on 30.05.2007 requesting for registration under Section 12AA of the Act. The appellant was called upon to furnish accounts for the year 2004-05 to 2006-07 and since the appellant did not furnish the same, according to the appellant, the application was kept pending.

5. Meanwhile, the appellant filed a second application, which was rejected by the respondent vide order dated 11.03.2011. Subsequently, a third application was filed on 13.03.2013, which was considered by the respondent and registration was granted under Section 12AA vide order dated 30.09.2013.

6. The appellant is not aggrieved by the order dated 30.09.2013, but is aggrieved by the fact that benefit of registration will accrue to the appellant only from the assessment year 2014-15.

7. The contention before us is that the first application which was filed by the appellant on 30.05.2007 should be reckoned for all purposes and the application having not been rejected, the registration granted vide order dated 30.09.2013 should take effect from 30.07.2007.

8. Heard Ms.Pushya Sitaraman, learned Senior Counsel for the appellant and Mr.J.Narayanaswamy, learned Senior Standing Counsel for the respondent.

9. We are unable to countenance the stand taken by the appellant for more than one reason. Firstly, the appellant did not pursue their application dated 30.05.2007 and the respondent had passed an order on 21.11.2007 stating that the application for registration is lodged for no further action. The question would be as to how the word 'lodged' should be interpreted. The appellant seeks to take advantage of the liberty granted by the Income Tax Officer in the letter dated 21.11.2007 stating that the appellant is at liberty to make a fresh application. Firstly, the Income Tax officer has no jurisdiction to grant any liberty, as he is not the Competent Authority to take a decision on an application filed under Section 12AA of the Act.

10. In our considered view, the appellant at that point of time rightly understood the purport of the communication dated 21.11.2007 and precisely for such reason filed a fresh application dated 11.03.2011. That application was rejected as withdrawn. For reasons best known to the appellant, third application was made on 13.03.2013 which was considered and registration was granted.

11. Thus, for the above reasons, the Tribunal was fully right in stating that the registration can be only prospective that is from the date of the order viz., 30.09.2013 that is with effect from the assessment year 2014-15.

12. In the result, the appeal filed by the appellant is dismissed and the Substantial Questions of Law are answered against the appellant. No costs.

svki

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Director of Income Tax(Exemptions)
Chennai 600 034.

2.The Income Tax Appellate Tribunal Madras 'C' Bench
Chennai.

3. The Commissioner of Income Tax,
(Exemptions), Chennai, Tamil Nadu.

+1cc to Mr.Arunkurian Joseph, Advocate, S.R.No.8618
+1cc to Mr.J.Narayanaswamy, Advocate, S.R.No.86311

T.C.A.No.955 of 2018

SSI(CO)
KAK(05/02/2019)