IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.18855 of 2009

The Mother's Service Society,
5, Puduvai Sivam Street,
Venkata Nagar,
Puducherry - 605011. ...Petitioner

Vs

1. The Director,
   Central Board of Direct Taxes,
   North Block, Central Secretariat,
   New Delhi - 110001.

2. The Chief Commissioner of
   Income Tax, Chennai VI,
   121, Nungambakkam High Road,
   Chennai - 600034.

3. The Commissioner of Income Tax,
   Puducherry. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent to quash the impugned order in F.No.203/106/2007 dated 12.08.2008 in refusing/rejecting the renewal of recognition sought for in terms of Section 35(1)(iii) of the Income Tax Act, 1961 covering the period from 01.04.2003 to 31.03.2008 and consequently direct the first respondent to grant such recognition as prayed for.

For Petitioner : Mr.A.S.Sriraman
for Mr.S.Sridar

For Respondents: Mr.ANR.Jaya Prathap, JSC

O R D E R

The petitioner's application for approval under Section 35 (1)(iii) of the Income Tax Act, 1961, came to be rejected, through the impugned order dated 12.08.2008, on the sole ground that there is no evidence for research in social sciences undertaken by them.

2. It is seen that the petitioner-Society was earlier granted approval from the year 1981 onwards, at which point of time, the respondents were of the view that the evidence furnished by the petitioner was sufficient to establish that they were undertaking research in social sciences as contemplated under Section 35(1)(iii). When the petitioner sought for renewal of the approval with effect from 2003 onwards, the reason that there was no evidence for research in social sciences, has been cited by the first respondent in the impugned order. I am unable to apprehend as to how the respondent can take such a contradictory stand, when they have chosen to grant approval for the earlier years. Even assuming that the evidence before the first respondent from the year 2003 onwards, was not sufficient to establish that the research in social sciences was undertaken by the petitioner, it was incumbent on the part of the respondents to call for explanation from the petitioner to establish that they were undertaking research work even after 2003, particularly when they had earlier granted approval to them. In the absence of any such prior show cause notice giving an opportunity to the petitioner to establish their case, it would be violative of the principles of natural justice and consequently, the impugned order is liable to be set aside.

3. In the light of the above observations, the order of the first respondent in F.No.203/106/2007, dated 12.08.2008, is quashed and the matter is remanded back to the first respondent, who shall issue a fresh show cause notice establishing the reasons for contemplating the rejection of renewal application and giving sufficient opportunity to the petitioner. On receipt of any objections from the petitioner by way of reply, the first respondent herein shall conduct due enquiry, after giving sufficient opportunity of personal hearing to the petitioner and pass appropriate orders, preferably within a period of 12 weeks from the date of receipt of copy of this order.

4. With the above observations, the writ petition stands allowed. No costs.

s/d-
Assistant Registrar(CS VI)



True Copy

Sub-Assistant Registrar

hvk

To

1. The Director,
   Central Board of Direct Taxes,
   North Block, Central Secretariat,
   New Delhi - 110001.

2. The Chief Commissioner of
   Income Tax, Chennai VI,
   121, Nungambakkam High Road,
   Chennai - 600034.

3. The Commissioner of Income Tax,
   Puducherry.

+1 CC to Mr.S.Sridar, Advocate sr 58869.

W.P.No.18855 of 2009

SP(26/08/2019)