IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2019

CORAM:

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

Tax Case Appeal Nos.310 and 311 of 2011

The Director of Income Tax,
Exemption, Chennai - 34.

...Appellant in both Appeals

-vs-

United Way of Chennai
Park View, 3rd Floor,
Old No.85, New No.94,
G.N.Chetty Road,
T.Nagar, Chennai 17. ...Respondent in both Appeals

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'B' Bench, Chennai dated 12.01.2011 passed in ITA Nos.1993 and 1994/Mds/2010 for the assessment year 2009-10, Appeal against the order of the Income Tax Appellate Tribunal "B"Bench Chennai dated 12/01/2011 in ITA.NO.1994/mas/2010 Assessment year 2009-2010 and dated 12/01/2011 in ITA.NO.1993/mas/2010 Assessment year 2009-2010(PAN.NO.AAAAU26195)

For Appellant : Mr.J.Narayanasamy

For Respondent : Mrs.Sree Lakshmivalli

COMMON JUDGMENT

Judgment of the Court was delivered by T.S.Sivagnanam, J.]

These appeals by the Revenue are filed under Section 260A of the Income Tax Act, 1961 (for short the "Act") against the order dated 12.01.2011 passed by the Income Tax Appellate Tribunal 'B' Bench in ITA Nos.1993 and 1994/Mds/2010 for the assessment year 2009-10.

2. These Appeals have been admitted on the following Substantial Question of Law:-

> "Whether on the facts and circumstances of the case, the Tribunal was right in finding that the assessee is entitled to the benefits available under Section 12AA and Section 80G contrary to the proviso of Section 2(15) of the I.T.Act?"

3. Heard Mr.J.Narayanasamy, learned Senior Standing Counsel for the appellant/Revenue and Mrs.Sree Lakshmivalli, learned counsel for the respondent.

4. The Tribunal has set aside the order passed by the Director of Income Tax (Exemptions) (for short, "DIT"), dated 30.09.2010 rejecting the claim made by the assessee for registration under Section 12AA of the Act on the ground that the activities of the assessee as contained in the Memorandum cannot be called as charitable in nature as defined under Section 2(15) of the Act. The DIT in the order dated 30.09.2010 came to such a conclusion solely based on Clause xvi of the Rules and Regulations of the respondent and held that it speaks about conducting programmes for raising funds or otherwise. The DIT observed that the term 'otherwise' is vague and cannot be called as charitable purpose. The Tribunal while deciding the correctness of the said order, in our considered view, rightly held that the expression 'otherwise' has to be read along with the objects enumerated in the Rules and Regulations of the Assessee, which was found to be charitable in nature and of public cause. It would be well open to the Assessing Officer to take note of the same while completing the assessment. Thus, in our considered view, the order passed by the Tribunal is perfectly legal and valid.

5. In the result, the appeals filed by the Revenue are dismissed. The substantial question of law is answered against the Revenue. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

To

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

2 The Director of Income Tax(Exemptions)
Ayakar Bhawan, Annexe III Floor,
NO.121 M.G Road,
Nungambakkam,
Chennai 600 034.

+1cc to Mr.J.Narayanasamy, Advocate sr.no.151
+1cc to Mr.N.Muthukumar, Advocate sr.no.229

T.C.A.Nos.310 and 311 of 2011

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