

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.7037 & 7038 of 2012
and
M.P.Nos. 2 & 2 of 2012

The Tamil Chamber of Commerce,
No.318, Old No.174, Sivakami Complex,
I Floor, Thambu Chetty Street,
George Town, Chennai - 600001.
Rep. by its Secretary.

...Petitioner in both WPs

Vs

1. The Director of Income Tax (Exemptions),
Ayakar Bhavan,
Annexe, 3rd Floor,
121, Mahatma Gandhi Road,
Chennai - 600034.

2. The Joint Commissioner of Income Tax (OSD),
(Exemption) - II,
121, Mahatma Gandhi Road,
Chennai - 600034.

...Respondents in both WPs

PRAYER in W.P.No.7037 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the first respondent in the impugned proceedings DIT(E) No.2(1127)12AA(3)/ 2011-12 dated 09.12.2011 cancelling the registration granted to the petitioner under Section 12A(a) of the Income Tax Act, 1961, quash the same as it is violative of Section 12AA(3) of the Income Tax Act, 1961.

PRAYER in W.P.No.7038 of 2012: 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 second respondent in the impugned assessment order dated 26.12.2011 in PAN No.AACCT6458N imposing tax denying the exemption under Section 11 and 12 of the Income Tax, 1961 available to the

petitioner pursuant to the registration granted to the petitioner as a charitable institution in terms of Section 12A (a) of the Income Tax, 1961 on the ground that the said registration stands cancelled by the Director of Income-Tax (Exemptions), the 1st respondent herein with effect from 01.04.2009 vide proceedings No.DIT(E) No.2(1127)12AA(3)/ 2011-12 dated 09.12.2011, quash the same and direct the first respondent to complete the assessment based on the outcome of the writ petition filed by the petitioner challenging the order of cancellation.

For Petitioner : Ms.Harshitha Govindarajan
(in both WPs) for Mr.K.Vaitheeswaran

For Respondent : Mr.D.Prabhu Mukunth Arun Kumar,
(in both WPs) Junior Standing Counsel

C O M M O N O R D E R

While W.P.No.7037 of 2012 has been filed challenging the cancellation of the petitioner's registration under Section 12AA (3) of the Income Tax Act, W.P.No.7038 of 2012 has been filed challenging the consequent assessment order dated 26.12.2011 for the assessment year 2011-12.

2. Though the petitioner herein had raised several grounds in both these writ petitions challenging the orders impugned herein, in my view, none of these grounds can be invoked for the purpose of evading an alternate remedy available under the act against both the impugned orders. Nevertheless, if the petitioner is granted liberty to file an appeal at this stage, the ends of justice would be secured.

3. In the light of the observations made, the petitioner is granted liberty to file an appeal against the impugned order of cancellation of the registration dated 09.12.2011 before the Income Tax Appellate Tribunal, within a period of 4 weeks from the date of receipt of a copy of this order. Further, the petitioner is also granted liberty to file an appeal against the assessment order dated 26.12.2011 for the assessment year 2011-12, within a period of 4 weeks from the date of receipt of a copy of this order. The Appellate Authorities shall consider such appeals on its own merits and in accordance with law and pass appropriate orders, as expeditiously as possible, after giving due opportunity of personal hearing to the petitioner herein.

4. Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The Director of Income Tax (Exemptions),
Ayakar Bhavan,
Annexe, 3rd Floor,
121, Mahatma Gandhi Road,
Chennai - 600034.

2.The Joint Commissioner of Income Tax (OSD),
(Exemption) - II,
121, Mahatma Gandhi Road,
Chennai - 600034.

+1cc to Mr.K.Vaitheeswaran Advocate, S.R.No.68330

+1cc to M/S.Hema Muralikrishnan Advocate, S.R.No.68889

RV(CO)
CB(25/09/2019)

W.P.Nos.7037 & 7038 of 2012
and
M.P.Nos. 2 & 2 of 2012

सत्यमेव जयते

WEB COPY