IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 30035 of 2011
and
M.P. No. 1 of 2011

The Southern India Chamber of Commerce
and Industry,
Indian Chamber Building,
No.6, Esplanade Road,
Chennai - 600 108.
Represented by its Secretary,
S. Raghavan ... Petitioner

Vs

1. The Deputy Director of Income tax,
(Exemptions)-II,
124, M.G. Road,
Chennai - 600 034.

2. The Director of Income tax,
(Exemptions)-II,
124, M.G. Road,
Chennai - 600 034. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the Second Respondent and quash the Impugned Notice issued under Section 12AA(3) of the Act in DIT (E) No.124 III/12AA(3)/2011-2012 dated 01-11-2011 for the assessment year 2009-2010 and direct the Second Respondent to drop the proceedings initiated for withdrawing the registration granted under Section 12AA of the Act.

For Petitioner : Mr. R. Venkat Narayanan
for Mr. Subbraya Aiyar & Ramamani

For Respondents : Mr. D. Prabhu Mukunth Arun Kumar
Junior Standing Counsel

for Mrs. Hema Muralikrishna
Senior Standing Counsel

ORDER

This writ petition has been filed by the Petitioner, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the Second Respondent and quash the Impugned Notice issued under Section 12AA(3) of the Act in DIT (E) No.124 III/12AA(3)/2011-2012 dated 01-11-2011 for the assessment year 2009-2010 and direct the Second Respondent to drop the proceedings initiated for withdrawing the registration granted under Section 12AA of the Income Tax Act, 1961.

2. The Petitioner has challenged the impugned notice dated 01.11.2011 seeking to revoke the registration granted to the Petitioner under Section 12A of Income Tax Act, 1961 under Sub-section A (a) (3) of the Income Tax Act, 1961 (in short the IT Act, 1961). The Petitioner was originally given a certificate under Section 12A(a) (3) of the IT Act, 1961 as early as 07.12.1982.

3. The main income of the Petitioner appears to be from issue of Certificate of origin, Certificate of invoice, Electricity Charges, Conservancy charges, Security Charges and rent from commercial complexes. It is under these circumstances, a notice was issued to the Petitioner under Section 148 of the IT Act, 1961 dated 24.02.2011 to reopen the assessment and parallely a notice was issued to cancel the registration granted to the Petitioner. As far as the assessment proceedings are concerned, the issue went up to the Tribunal and the Tribunal by an order dated 17.04.2015 has ultimately come to a conclusion that the activity of the Petitioner is charitable in nature. (Order dated 17.04.2015 in I.T.A. Nos. 2733 & 2734/Mds/2014).

4. The learned counsel for the Petitioner has relied on the following three cases which appear to be in favour of the Petitioner.

(a) The decision of the Karnataka High Court in the case of "Director of Income Tax (Exemption) Vs Karnataka Industrial Area Development Board, 2015 229 TAXMAN 0539 (Karnataka).

(b) The decision of this Court in the case of Tamil Nadu Cricket Association Vs Director of Income Tax (Exemptions), 2014 265 CTR 0277 (Mad) : 2014 98 DTR 0299 (Mad) : 2014 221 TAXMAN 0275 and

(c) The decision of this Court in the case of CIT Vs Sarvodaya Ilakkiya Pannai, 2012 250 CTR 0332 : 2012 343 ITR 0300.

5. I am of the view that the Petitioner should participate in the proceeding before the Second Respondent who issued the notice seeking to cancel the registration granted under Section 12 (A) (a) of the IT Act, 1961.

6. The Second Respondent shall therefore consider the order passed by the Tribunal in the Petitioner's own case and the decisions which have been cited above by the Petitioner while disposing the impugned proceedings. Since the dispute is pertaining to the year 2011, the Second Respondent is directed to dispose the said proceedings within a period of three months from the date of receipt of a copy of this order. It is needless to state that the Petitioner shall be heard before such orders being passed. This Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

arb
To

1. The Deputy Director of Income tax,
(Exemptions)-II,
124, M.G. Road,
Chennai - 600 034.

2. The Director of Income tax,
(Exemptions)-II,
124, M.G. Road,
Chennai - 600 034.

+1cc to Mrs.Hema Muralikrishnan, Advocate SR.4962

W.P. No. 30035 of 2011
and
M.P. No. 1 of 2011

EV(CO)
CB(21/02/2020)