IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.8.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.No.432 of 2017

M/s.Kamaraj Educational Trust,
Kakankari Road, M.Savalur,
Kaveripattinam P.O.,
Krishnagiri 635 112. Appellant

Vs.

Chief Commissioner of Income Tax,
44 Williams Road, Cantonment,
Trichy. Respondent

Prayer: Tax Case Appeal filed under Section 260-A of the Income Tax Act, 196I against the order of the Income Tax Appellate Tribunal Madras "A" Bench, dated 27.11.2015 in I.T.A.No.2009/Mds/2015 and against the order of the Chief Commissioner of Income Tax, No.44, Williams Road, Cantonment Trichy, dated 10.08.2015, made in .No.935(6)/CCIT/TRY/2014-15.

For Appellant : Mr. N.V.Balaji
For Respondent : Mr.J. Narayanaswamy,
Senior Standing Counsel

ORDER

(Made by Dr.Vineet Kothari,J)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 3 July 2020, by Judges at their respective residences and the counsel, staff of the Court appearing from their respective residences.

2. The Assessee, M/s.Kamaraj Educational Trust, has filed this Appeal aggrieved by the order dated 27.11.2015, by which, the learned Tribunal dismissed the Appeal of the Assessee and upheld the order of the learned Chief Commissioner of Income Tax dated 10.8.2015 by which, the learned Chief Commissioner of Income Tax denied exemption to the Appellant-Trust under Section 10 (23C) (vi) of the Income Tax Act, 1961.

3. The reasons assigned by the Tribunal in its order are quoted below for ready reference:-

> "(i) Heard both sides. Perused the order of the Chief Commissioner. On a perusal of the object clauses of the trust deed, we find that the assessee is established not only for managing all types of educational institutions but also to promote finance, hospitals, research centers in medical science. On a perusal of the profit and loss account and income & expenditure account of the assessee, we find that the assessee incurred certain expenditure towards awareness on agriculture, awareness on scientific research programme and blood donor camp expenses, medical treatment expenses, free eye camp activity which goes to show that assessee's activities are not confined only to the education during the year ended 31.03.2014. The Chief Commissioner also observed that assessee trust amended its deed only on 29.07.2015 which is beyond the year ended 31.03.2014, therefore not relevant for the assessment year 2014-15 and he denied exemption holding that assessee trust is existing not only for education but also for other activities. We do not find any infirmity in coming to the conclusion by the Chief Commissioner in rejecting the application for exemption under section 10(23C)(vi) of the Act. Thus, we reject the grounds raised by the assessee and sustain the order of the Chief Commissioner of Income Tax."

4. The learned Chief Commissioner, in his order dated 10.8.2015, gave the following reasons for denying the said exemption to the Educational Trust of the Appellant/Assessee:-

> " Decision on application
>
> It is seen that the trust deed amendment has been made only on 29.7.2015 which is beyond 31.3.2014 which is relevant for the assessment year 2014-15. It is seen that objects of trust deed relevant for the current year included promotion, finance and maintenance of hospitals and charitable dispensaries, child welfare centers. Trust deed also included objects like development of human skills, sports, games. It is seen that the trust in the relevant year is not running only for educational purposes. As per income and expenditure account, the

expenses of Rs.6,00,763/- is incurred for awareness of agriculture. A sum of Rs.55,000/- has been incurred for free medical treatment. A sum of Rs.27,480/- is spent towards free eye camp activity. Since the trust is existing not solely for education but also for other activities, Exemption u/s 10(23C) iv is hereby denied in their application dated 29.9.2014 for a grant of exemption. Exemption u/s 10 (23C)vi is hereby rejected."

5. The Assessee has sought to raise the following questions of law in the present Appeal filed under Section 260-A of the Act before us:-

"(i) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in upholding the order of the Chief Commissioner of Income Tax, rejecting the application of the assessee for grant of approval for exemption under section 10(23C) in respect of income its School?

(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that assessee is not existing solely for the purpose of education but also other activities and therefore the Respondent was right in rejecting the application for grant of approval under section 10(23C) in respect of income of the School run by it?

(iii) Whether based on material and evidences before it, the Income Tax Appellate Tribunal could have come to the conclusion that that assessee is not existing solely for the purpose of education but also other activities and therefore the Respondent was right in rejecting the application for grant of approval under section 10(23C)?"

6. The learned counsel appearing for the Assessee Mr.N.V.Balaji has submitted that the evidence adduced by the Appellant-Educational Trust for spending the amount in question on the Agricultural Awareness, Medical Camps and Blood Donation Camps organised by the Assessee were not considered by the learned Chief Commissioner and he also submitted that the expenditure incurred in question was for maintenance of Hospitals, Charitable Dispensaries, Child Welfare Centres and Development of Human Skills, Sports, Games, etc., which were included in the 'Objects' Clause of the Memorandum of Trust of the Assessee. He further submitted that the Trust Deed was

amended by the Trust itself, on 29.7.2015 to specifically emphasize that the Trust exists solely for the purpose of engaging the above services. The said Resolution dated 29.7.2015 is also quoted below for ready reference:-

> "The objects of the trust shall include and be restricted to the following only-
>
> To establish, promote, finance and maintain and manage all type of educational institutions and individuals for the advancement of education of knowledge in arts, Science, Literature, humanity and all other useful subjects in all their manifestations."

He, therefore, submitted that the Appeal of the Assessee deserves to be allowed.

7. In support of his contentions, the learned counsel for the assessee relied upon the following decisions:-

(i) Director of Income Tax (Exemptions) Vs. Institute of the Franciscan Clarist (2005) 148 TAXMAN 78 (DEL.)

(ii) Sri Sai Educational Trust Vs. CIT (Mad-W.P.No.11301 of 2018 dated 10.10.2018)

(iii) CIT Vs. Karnataka Lingayat Educational Society (371 ITR 249 (KAR))

(iv) Queen's Educational Society Vs. CIT (2015) 372 ITR 699 (SC)

(v) Aditanar Educational Institution Vs. Additional CIT (224 ITR 210 (SC)

(vi) Vanita Vishram Trust Vs. CCIT (327 ITR 121 (BOM)).

8. Per contra, Mr.J.Narayanasamy, learned Senior Standing Counsel appearing for the Respondent/Revenue, relying upon the decision of the Andhra Pradesh High Court in R.R.M.Educational Society v. Chief Commissioner of Income Tax (2012) 20 taxmann.com 269 (A.P.), urged that the expenditure in question was not incurred solely for educational purposes and therefore, the case of the Assessee did not fall within the four corners of Section 10(23C) (vi) of the Act and therefore, the Authorities below were justified in rejecting the said Application.

9. Section 10(23C)(vi) of the Act reads as under:-

> "Incomes not included in total income
>
> 10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included--
>
> ... .

(23C) any income received by any person on behalf of --

... ...

(vi) any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiab) or sub-clause (iiiad) and which may be approved by the prescribed authority;"

10. Having heard the learned counsel for the parties, we are of the opinion that the learned Chief Commissioner has not brought on record any evidence for holding that the expenditure incurred in question did not relate to the educational activities of the Appellant Trust, which runs a School. The expenditure incurred to the extent of Rs.6,00,763/- for Awareness on Agriculture, Rs.55,000/- for Medical Camps and Rs.27,480/- for Eye Camp activity could very well be part of the activities carried out in the School itself. We cannot accept the view of the learned Chief Commissioner that these expenditure incurred could not be related to the educational activities of the Appellant Trust.

11. Admittedly, the Objects of the Trust included such Medical facilities, Charitable activities, Child Welfare etc., in its Trust Deed. The amendment with effect from 29.7.2015 was only to further emphasize and to bring the case within the four corners of Section 10(23C)(vi) of the Act in its strict sense.

12. In our opinion, the burden lies upon the Revenue to bring on record the evidence to rebut the claim of the Appellant Trust and to establish that the activities carried out and the expenditure incurred by the Assessee Trust could not be related to the educational activities of the Appellant Trust by any stretch of imagination. No such exercise of either bringing the evidence on record or controverting or rebutting the evidence produced by the Assessee before the Chief Commissioner appears to have been undertaken by the learned Chief Commissioner. A mere reference to the expenditure incurred and the Head of expenditure in question while rejecting the Application under Section 10(23C)(vi) of the Act is not enough to reject the Application under the provisions of the Act.

13. The very purpose of educational activities and charitable activities for which the said provision intends to extend the benefit of exemption and for educational activities

in particular, Section 10(23C)(vi) of the Act, is likely to be defeated if such pedantic and narrow approach on the part of the revenue Authorities is allowed.

14. In these circumstances, we are not inclined to uphold the order passed by the Tribunal dated 27.11.2015 which upholds the order dated 10.8.2015 passed by the learned Chief Commissioner. Instead of answering the questions at our own end at this stage, we are inclined to remand the case back to the learned Chief Commissioner of Income Tax, Trichy. Further, we are not inclined to go into the details of the decisions cited by the learned counsel for the Appellant/Assessee as we are inclined to remand the matter to the learned Chief Commissioner.

15. In these circumstances, we hope and expect that the learned Chief Commissioner would pass fresh orders on the said Application of the Assessee dated 29.9.2014 after giving due opportunity of hearing to the Assessee and considering the evidence in detail and also the details of the expenditure incurred, by assigning proper reasons for either accepting the said Application or rejecting the same. However, we would expect detail reasoning on the part of the learned Chief Commissioner while passing fresh orders upon such remand.

16. With these observations, we dispose of the Tax Case Appeal setting aside the order dated 27.11.2015 passed by the learned Tribunal and that of the learned Chief Commissioner dated 10.8.2015 and restore the matter on the file of the learned Chief Commissioner of Income Tax, Trichy for passing fresh orders in accordance with law. The parties shall appear before the learned Chief Commissioner of Income Tax in the first instance on 25th August 2020 and thereafter, the learned Chief Commissioner of Income Tax shall pass fresh orders within a period of 3 months from that date. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Commissioner of Income Tax,
   No.44, Williams Road, Cantonment Trichy.

2. The Income Tax Appellate Tribunal
   Madras 'A' Bench, Chennai.

T.C.A.No.432 of 2017

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