WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.35904 OF 2015
AND
M.P.NO.1 OF 2015

Angel Christian Charitable Foundation India,
Rep., by its Finance Manager, Mr.Binu George
AK-54, 7th Main Road,
Shanthi Colony,
Anna Nagar,
Chennai - 600 040.

... Petitioner

-Vs-

1. The Deputy Director of Income Tax (Exemptions)-III,
Aayakar Bhawan Annexe,
No.121, Mahatma Gandhi Road,
Chennai - 600 034.

2. The Commissioner of Income Tax (Appeals)-VII,
Aayakar Bhawan Main Building, 2nd Floor,
No.121, Mahatma Gandhi Road,
Chennai - 600 034.

3. The Income Tax Appellate Tribunal,
A-3, 2nd Floor, Rajaji Bhavan,
Besant Nagar,
Chennai-600 090.

... Respondent

PRAYER:-

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in ITA.Nos.141/13-14 & 133/14-15 dated 31.12.2014 on the file of the 2nd respondent herein and in I.T.A.Nos.750 and 751/Mds/2015 dated 31.07.2015 r.w. M.P.Nos.142 and 143/Mds/2015 dated 16.10.2015 on the file of the 3rd respondent herein, quashing the orders of the 2nd respondent.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

For Petitioner : Mr.G.Baskar

For Respondent : Ms.Hema Muralikrishnan
Senior Standing Counsel

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

This writ petition has been filed by the assessee challenging the order dated 16.10.2015, passed by the Income Tax Appellate Tribunal 'A' Bench, Chennai (for brevity "the Tribunal") in M.P.Nos.142 and 143/Mds/2015 in I.T.A.Nos.750 and 751/Mds/2015 for the assessment years 2010-11 and 2011-12.

2. By the said miscellaneous petitions, the assessee sought for recalling the order passed by the Tribunal in the main Appeals dated 31.07.2015.

3. We have heard Mr.G.Baskar, learned counsel for the petitioner and Ms.Hema Muralikrishnan, learned Senior Standing Counsel for the respondents.

4. As against the order passed in I.T.A.Nos.750 and 751/Mds/2015 dated 31.07.2015, the assessee had filed Tax Case Appeals in T.C.A.Nos.142 and 149 of 2016, which were allowed by judgment dated 10.08.2021. The operative portion of the judgment reads as follows:-

> "5.We need not labour much to resolve the controversy raised in these tax case appeals on account of subsequently development, which had taken place during the pendency of these appeals.
>
> 6.The Commissioner of Income Tax (Exemptions), Chennai by order dated 22.02.2016 had registered the assessee-Trust as a public religious Trust under Section 12AA of the Act with effect from 20.11.2003. In fact, both the CIT(A) as well as the Tribunal in the earlier round had also noted that the appellant Trust did not have the benefit of 12AA registration. However, by order dated 22.02.2016, they have been recognised as a public religious Trust and taking note of the said registration, assessments for the assessment years 2013-14 to 2016-17 have been completed vide assessment orders dated 08.03.2016, 25.11.2016, 01.09.2017 and 09.11.2018 respectively.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

> 7.In the light of the registration having been granted in favour of the appellant/assessee with effect from 20.11.2003, the date on which the assessee-Trust was registered, the assessments, which are impugned before us, have to be necessarily redone.
>
> 8.For the above reasons, the tax case appeals are allowed, the orders passed by the Tribunal, the CIT(A) as well as the assessment orders dated 20.03.2013 and 31.03.2014, are set aside and the matters are remanded to the Assessing Officer for fresh consideration, who shall redo the assessment, taking note of the registration granted under Section 12AA vide order dated 22.02.2016, with effect from 20.11.2003, after affording an opportunity of personal hearing to the Authorized Representative of the assessee. Consequently, the substantial question of law is left open. No costs."

5. In the light of the above decision, the order dated 16.10.2015, passed in the miscellaneous petitions becomes unnecessary and nothing would survive for adjudication in this writ petition.

6. In the result, the writ petition stands disposed of with an observation that nothing requires to be considered in the same in the light of the decision in T.C.A.Nos.142 and 149 of 2016. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Deputy Director of Income Tax
(Exemptions)-III,
Aayakar Bhawan Annexe,
No.121, Mahatma Gandhi Road,
Chennai-600 034.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

2. The Commissioner of Income Tax (Appeals)-VII,
Aayakar Bhawan Main Building, 2nd Floor,
No.121, Mahatma Gandhi Road,
Chennai-600 034.

3. The Income Tax Appellate Tribunal,
A-3, 2nd Floor, Rajaji Bhavan,
Besant Nagar,
Chennai-600 090.

+1cc to Mr.G.Baskar, Advocate, S.R.No.39577

W.P.NO.35904 OF 2015

MG(CO)
PBS/14/09/2021

https://hcservices.ecourts.gov.in/hcservices/