IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

Tax Case Appeal No.506 of 2013

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

Indomer Ananathi
Chandramohan
Charitable Trust
Plot 115, Alwar
Thirunagar Annexe
Chennai – 600 087. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "D" Bench, dated 21.01.2013 passed in I.T.A.No.1903/Mds/2012 preferred against the order of the Director of Income Tax (Exemption) Chennai, dated 06.09.2012 in DIT(E)No.2(119)/11-12 against the order of Income Tax Appellate Tribunal 'B' Bench, Chennai in I.T.A.No.55/mds/2012 order dated 15.03.2012

For Appellant	:	Mr.J.Narayanaswamy Senior Standing Counsel
For Respondent	:	Mr.T.Vasudevan for M/s.R.Janakiraman

J U D G M E N T
(Delivered by M.DURAISWAMY, J.)

Challenging the order passed in I.T.A.No.1903/Mds/2012 on the file of the Income Tax Appellate Tribunal, Chennai "D" Bench, the Revenue has filed the above appeal.

2.The assessee trust was constituted by a Trust Deed dated 16.03.2011 and had filed an application in Form-10A on 19.05.2011 for registration under Section 12-AA. While processing the application, the Director of Income Tax (Exemptions) ("DITE" for brevity) issued a letter dated 26.09.2011 calling for details and asking to show cause why registration under Section 12-AA on the ground that the object clause 2(e) of the Trust Deed states about contribution of the funds towards developing, renovating and maintaining the places of worship, and clause 2(g) of the Trust Deed promotes God consciousness. The DITE rejected the application under Section 12-AA on the ground that the objects of the Trust contains mixed objects both religious and charitable as against the provisions of Section 11(1)(a) which only allows exemptions to the Trust which is either charitable or religious and not both.

3.Aggrieved by the said order, the assessee filed an appeal before the Income Tax Appellate Tribunal and the Tribunal allowed the appeal by following the decision of this Court in the case of Arulmigu Kamakshi Amman Trust in T.C.A.No.643 of 2011 dated 25.01.2012. The DITE, while giving effect to the order of the Tribunal, granted registration to the Trust as "Public Religious Trust".

4.Challenging the same, the assessee filed an appeal before the Income Tax Appellate Tribunal, and the Tribunal, by the impugned order, directed the DITE to grant registration to the Trust as "Public Religious Trust".

5.Aggrieved over the order passed by the Income Tax Appellate Tribunal, the Revenue has filed the above appeal.

6.The above appeal was admitted on the following substantial question of law :

> "Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee trust is entitled for registration u/s.12AA as public charitable trust?"

7.While modifying the order passed by the DITE, the Tribunal followed the judgment of the Division Bench of this Court, dated 25.01.2012, made in T.C.A.No.643 of 2011, wherein, the Tribunal held as follows :

"3.It was submitted by the Id.A.R. that the issue in this appeal was agains the action of the DIT in holding that the assessee was not eligible for registration u/s.12AA of the Act on the ground that one of the objects of the assessee speaks about developing and maintenance of places of worship as also promoting god consciousness. It was the submission that the issue was squarely covered by the decision of the Hon'ble jurisdictional High Court of Madras in the case of Arulmigu Kamakshi Amman Trust in Tax Appeal No.643 of 2011 dated 25.01.2012 wherein the Hon'ble jurisdictional High Court has held as follows :

"We have carefully considered the above submission. For the purpose of making an application under Section 12AA, the applicant must apply in Form 10. The said Form prescribes the format of the notice of accumulation of income to be given by charitable and religious trusts under Section 11[2] of the Act. For the purpose of availing the benefit of Section 11, registration is required. Section 11[1][a] reads as under:-

> "11[1]. Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income--
>
> [a] income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;"

6.From a reading of the above, it is clear that the income derived from the property held under trust wholly for charitable or religious purposes, shall not be included in the total income of the Trust. Therefore, the said provision would be applicable to both the Trusts established with the object of charitable as well as religious purposes. Therefore, Section 12AA of the Act does not make any difference between the Trusts created with the object of charitable and religious purposes and, even if the Trust is not created with both the objects, law does not make any disqualification for the trust to make an application for registration. Therefore, the Tribunal has correctly applied the provision of law and allowed the appeal, which finding is based on valid material evidence. The finding of the Tribunal is not perverse and it is a question of fact. Therefore, we find no ground to cause our interference into the order passed by the Tribunal. Accordingly, the order passed by the Tribunal is confirmed and both the substantial questions of law raised herein are answered against the Revenue."

It was the further submission that in view of the decision of the Hon'ble jurisdictional High Court the assessee was entitled to be registered u/s.12AA of the Act.

4.In reply, the Id.D.R. Vehemently supported the order of the DIT. It was the submission that the assessee trust had religious clauses in its objects and consequently was not entitled to registration u/s.12AA of the Act.

5.We have heard the rival submissions. As it is noticed that the issue in this appeal is squarely covered by the decision of the Hon'ble jurisdictional High Court in the case of Arulmigu Kamakshi Amman Trust (supra), the DIT is directed to grant registration u/s.12AA of the Act."

8.Mr.J.Narayanaswamy, learned Senior Standing Counsel, appearing for the appellant/Revenue, fairly submitted that the ratio laid down by the Division Bench of this Court in T.C.A.No.643 of 2011 squarely applies to the facts and circumstances of the present case.

9.The Tribunal has rightly observed that there is no trust called "Public Religious Trust" and there can only be a "Public Charitable Trust", therefore, the order passed by the DITE on 06.09.2012 granting registration to the Trust as "Public Religious Trust" is erroneous and the same should be modified as "Public Charitable Trust". The reasoning given by the Income

Tax Appellate Tribunal is just and proper. We do not find any ground much less any substantial question of law to interfere with the order passed by the Income Tax Appellate Tribunal.

10.Accordingly, this Tax Case Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal, Chennai "D" Bench

2. The Commissioner of Income Tax, Chennai.

3. The Director of Income Tax(Exemption), Chennai.

Tax Case Appeal No.506 of 2013

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