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

T.C.A.NOS.142 & 149 OF 2016

Angel Christian Charitable Foundation India,
New No.36, 'H' Block,
13th Main Road, Anna Nagar,
Chennai - 600 040. ... Appellant in both Appeals

-Vs-

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

PRAYER:-

Appeals under Section 260A of the Income Tax Act, 1961 against the order dated 31.07.2015 made in I.T.A.Nos.750 and 751/Mds/2015 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the Assessment Year 2010-11 and 2011-12 respectively.

Against the Order of the Commissioner of Income Tax (Appeals)-17, Chennai – 34, dated 31/12/2014 in I.T.A.No.141/13-147 & 133/2014-2015 in the Assessment Year 2010-2011 & 2011-2012 respectively.

Against the Assessment Order passed by the Deputy Director of Income Tax (Exemptions)-III, Chennai – 34, dated 31/03/2014 & 20/03/2013, PAN.No.AADCA9740R in the Assessent Year 2011-2012 & 2010-2011 respectively.

For Appellant (In both Appeals) : Mr.G.Baskar

For Respondent (In both Appeals) : Mr.J.Narayanaswamy Senior Standing Counsel

COMMON JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

These tax case appeals, by the appellant/assessee, filed under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), are directed against the order dated 31.07.2015, made in I.T.A.Nos.750 and 751/Mds/2015 on the file of the Income Tax Appellate Tribunal 'A' Bench, Chennai for the assessment years 2010-11 and 2011-12 respectively.

2. The appeals were admitted on 02.03.2016, on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in holding that the appellant is not eligible for exemption under Section 11 of the Income Tax act, 1961?"

3. Heard Mr.G.Baskar, learned counsel for the appellant and Mr.J.Narayanaswamy, learned Senior Standing Counsel for the respondent.

4. The Tribunal, by the impugned order, confirmed the order passed by the Commissioner of Income Tax (Appeals) – VII, Chennai (for brevity "the CIT(A)") dated 31.12.2014, which were the appeals filed by the assessee, which were dismissed holding that the assessee is not entitled to the benefit of Section 11 of the Act. The Tribunal affirmed such order by observing that the assessee had admitted that they are a religious organization and has undertaken religious pilgrimage and other activities relating to religious and they have not incurred any expenses for the purpose of charitable activity and accordingly, the appeals were dismissed. Challenging the correctness, the tax case appeals have been filed which were admitted on 02.03.2016, to decide the aforementioned substantial question of law.

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.

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.

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.

2. The Income Tax Appellate Tribunal 'A' Bench,
Rajaji Bhavan, Besant Nagar,
Chennai.

3. The Commissioner of Income Tax Appeals,
No.121, Mahatma Gandhi Road,
Chennai – 34.

4. The Deputy Director of Income Tax (Exemptions)-III, Chennai - 34.

+1cc to Mr.G.Baskar, Advocate, S.R.No.39578

MG(CO)
PBS/14/09/2021