IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

T.C.A.NO.62 OF 2016

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

The All India Skin & hide
Tanners and Merchant
Association, No.43 (old 53)
Raja Muthiah Road, Periamet,
Chennai - 600 003. ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "A" Bench, dated 06.06.2014 in I.TA.No.1751/Mds/2013, Assessment Year 2009-10.

Against the Order of the Commissioner of Income Tax (Appeals)-VII, Chennai dated 21.08.2013 in ITA.No.634/11-12, GIR.No.PAN/TAN.No.AAATA0492J for the Assessment Year 2009-10 against the order of the Joint Commissioner of Income Tax (OSD) (Exemption)II, Chennai dated 30.12.2011 in PAN/GI.No.AAATA0492J for the Assessment Year 2009-10.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent : Mr.G.Baskar

JUDGMENT
(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Mr.J.Naryanaswamy learned Senior Standing Counsel for the appellant/Revenue and Mr.G.Baskar, learned counsel for the respondent/assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 06.06.2014 made in I.TA.No.1751/Mds/2013 on the file of the Income Tax Appellate Tribunal, Chennai, "A" Bench (for brevity, the Tribunal) for the Assessment Year 2009-10.

3.The appeal was admitted on 15.02.2016 on the following substantial questions of law:

> "1.Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the society is eligible for exemption under Section 11 of the Income Tax Act, in complete disregard to the facts of the case and provisions of newly inserted provisos to Section 2(15) of the Income Tax Act?
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> 2.Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the activities of the assessee society are governed under 'principles of mutuality' even though the society is registered under Section 12AA of the Income Tax Act as a 'charitable entity' and has been claiming that status all along, more so when Kerala High Court in the case of M/s.Investors Club, Trichur vs. CIT [318 ITR 427 (Ker.)] has clearly held that a 'charitable institution' cannot raise the 'plea of mutuality'?
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> 3.Whether on the facts and in the circumstances of the case and in law, the order of the Tribunal was not against the principle of 'judicial consistency' in as much as it was passed in disregard of the findings of its earlier order in ITA Nos.2749, 2750 and 2751/Mds/1994 for assessment years 1998-99, 1990-91 and 1991-92 where a clear finding had been given that the assessee's activities are in the nature of 'advancement of objects of general public utility' and such decision had already reached finality? And
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> 4.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that reference made by the Assessing Officer to the D.I.T.(E) has statutory powers to cancel the registration under Section 12AA(3), if he is satisfied that the activities of the society are not genuine or are not being carried out in accordance with the objects, more so when such an order is yet to be passed?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the Low Tax Effect in terms of Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed as withdrawn on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in this case is above the threshold limit fixed in the said Circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Income Tax,
   Chennai.

3. The Commissioner of Income Tax (Appeal)-VII,
   Chennai.

4. The Joint Commissioner of Income Tax (OSD) (Exceptions)II
   Chennai.

+1cc to Mr.M.P.Senthil Kumar, Advocate, S.R.No.24484

T.C.A.No.62 of 2016

SNII(CO)
CS/28/06/2021