IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.03.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.Nos.174 & 175 of 2014

Director of Income Tax Exemptions,
Chennai. ... Appellant in both TCA

v.

M/s. M.L. Meyyappan Charitable Trust,
No.10, II Cross Street,
CIT Colony, Mylapore,
Chennai - 600 004. .. Respondent in both TCA

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the common order of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench, dated 19.10.2011 in I.T.A.Nos.2073 & 2074/Mds/2010, Appeal filed against the order of the Director of Income Tax(Exemptions), Chennai, dated 30/08/2010 and made in DIT(E)No.2(1112)/09-10.

For Appellant : Mr. J. Narayanaswamy
(in both TCA) Senior Standing Counsel

For Respondent : Mrs. Sriniranjani Srinivasan
(in both TCA)

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

Challenging the common order dated 19.10.2011 passed in I.T.A.Nos.2073 & 2074/Mds/2004 on the file of the Income Tax Appellate Tribunal, Chennai, ''D'' Bench (for brevity, the Tribunal), the revenue has filed the above appeals.

2. The assessee trust was constituted by trust deed dated 27.11.2009 and it had filed application in Form 10A on 08.02.2010 seeking registration under section 12AA. The DITE called for certain particulars and in the reply it was stated no activities have commenced. Therefore, the DITE was not

able to verify the objects of the trust and genuineness of the activities carried on by the trust as mentioned in 12aa (b). Therefore, the DITE rejected the application filed by the assessee for the grant of registration under section12AA.

3. Aggrieved over the common order passed by the Commissioner of Income Tax (Appeals), the assessee filed appeals before the Income Tax Appellate Tribunal, and the Tribunal allowed the appeals and directed the DITE to grant registration of trust under section 12AA and grant approval under section 80G following the decisions of the Tribunal and the High Court. Challenging the common order passed by the Income Tax Appellate Tribunal, the Revenue has filed the above appeals.

4. .At the time of admission of the above appeals, the following substantial question of law arose for consideration:

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled for registration under section 12-AA and approval under section 80
> G when no activities were started by the Trust?"

5. When the appeals are taken up for hearing, Mrs. Sriniranjani Srinivasan, learned counsel appearing for the respondent submitted that question of law raised by the appellant-department is covered by the following decisions:-

(i) (2020) 114 Taxmann. com 693 (SC) (Anand Social & Educational Trust v. Commissioner of Income Tax] wherein the Hon'ble Supreme Court held as follows:-

> " ... 12. Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the

Trust. ..."

(ii) An unreported judgment dated 22.02.2021 made in T.C.A.Nos.401 and 402 of 2011, wherein this Bench held as follows:-

> "... 5. On a reading of the above judgment, it is clear that when the genuineness of the objects of the Trust were not questioned by the CIT and when the Trust was yet to commence its operation and when a subject matter of scrutiny by the CIT as contemplated under section 12 AA(3) of the Income Tax Act, the Revenue would not be justified in refusing the registration at the threshold. The said ratio was laid down in a judgment reported in (2012) 206 Taxman 69 (CIT Vs. Arulmighu Sri Kamatchi Amman Trust). Following the ratio laid down in the judgment, the Hon'ble Division Bench of this Court directed the CIT to register the Trust. The ratio laid down by the Hon'ble Division Bench of this Court squarely applies to the facts of the present case. We do not find any error or irregularity in the order passed by the Income Tax Appellate Tribunal. In such view of the matter, the appeal in T.C.A.No.401 of 2011 is liable to be dismissed.

6. On a reading of the Judgments relied upon by the learned counsel for the respondent it is clear that the issue involved in the present appeals is identical of the issue that were decided in the said Judgments.

7. The learned counsel appearing for the appellant has not produced any contra judgment in support of their contention.

8. In these circumstances, following the ratio laid down by the Hon'ble Supreme Court and also by us in the above cited judgments, we are deciding the question of law against the revenue and in favour of the assessee. the Tax Case Appeal are dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//
Sub Assistant Registrar

Rj

To

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

2.The Director of Income Tax(Exemptions)
Chennai.

+1cc to M/s.G.Baskar, Advocate SR.12968

T.C.A.Nos.174 & 175 of 2014

GP(CO)
CB(23/03/2021)