IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal Nos.186 and 187 of 2014

The Commissioner of Income Tax
Puducherry. .. Appellant in both the appeals

Versus

M/s. Soorya Educational Trust,
23 St.Theressa Street,
Puducherry. .. Respondent in both the appeals

Appeals preferred under Section 260A of the Income Tax Act, 1961, against the common order dated 16.06.2010 passed by the Income Tax Appellate Tribunal, "A" Bench, Chennai, in I.T.A.Nos.361 & 362/Mds/2010.

For Appellant	:	Mr. J. Narayanaswamy Standing Counsel in both the appeals
For Respondent	:	Mr. T.T. Ravichandran in both the appeals

COMMON JUDGMENT

(Judgment of the Court was delivered by R.MAHADEVAN, J.)

These tax case appeals have been filed by the appellant/Revenue, challenging the common order dated 16.06.2010 passed by the Income Tax

Appellate Tribunal, "A" Bench, Chennai, in I.T.A.Nos.361 & 362/Mds/2010, relating to the assessment years 2005-2006 and 2006-2007.

2. By order dated 15.07.2014, this court admitted the aforesaid tax case appeals on the following substantial questions of law:

> "*(i) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in directing the Assessing Officer to consider the assessee Trust as deemed to have been registered under Section 12(AA) and redo the assessment?*
>
> *(ii) Whether the application filed under Section 12AA of the Income Tax Act given for registration is not processed for want of particulars from the assessee could be treated as refusal of registration under Section 12AA(3)?*
>
> *(iii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee is deemed to have been registered under Section 12A of the Income Tax Act and redo the assessment applying provisions of Sections 11 to 13 of the Income Tax Act especially when the registration was rejected by the Commissioner of Income Tax?"*

3. The assessee is an Educational Trust conducting classes in accordance with the syllabuses prescribed by Annamalai University, which includes Distance Education Programmes for Hotel Management, Catering Technology and award diploma and degrees. They have filed return of income for the assessment years 2005-06 and 2006-2007 on 31.03.2007 and the same was processed under section 143(1). Before completing the assessment, the assessee claimed exemption under Section 11 of the Income Tax Act.

However, the Assessing Officer did not grant the same on the ground that the trust was not registered under section 12A of the Act and accordingly, rejected the claim for exemption made under section 10(23C) of the Act. Challenging the assessment order, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals)- XII and questioned the correctness of the order passed by the Assessing Officer in not considering the exemption under Section 11 of the Income Tax Act. By orders dated 31.12.2009, the Appellate Authority dismissed the appeals filed by the assessee. Aggrieved by the orders of the appellate authority, the assessee preferred further appeals before the Tribunal. The Tribunal, by the common order dated 16.06.2010 allowed the appeals filed by the assessee. Aggrieved by the same, the present appeals have been filed by the Revenue.

4. Today, when the matters were taken up for consideration, learned counsel appearing for the respondent-assessee submitted that subsequent to the filing of these Tax Case Appeals, the Commissioner of Income Tax (Exemptions) issued a proceedings dated 04.03.2016 permitting registration of the Trust established by the assessee as a "Public Charitable Trust" under section 12AA of the Income Tax Act, 1961 with effect from 07.07.2004. He has also produced a copy of the proceedings dated 04.03.2016 to that effect.

5. The said submission of the learned counsel for the respondent has been fairly conceded by the learned counsel for the appellant.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is inclined to remit the matter back to the Assessing Officer to consider the Certificate of exemption granted by the Commissioner of Income Tax dated 04.03.2016 in favour of the respondent-assessee with effect from 07.07.2004, afford an opportunity of hearing to the respondent and pass orders of assessment relating to the issue on merits and in accordance with law. The assessing officer shall complete the said exercise within a period of three months from the date of receipt of a copy of this judgment.

7. These tax case appeals are disposed of in the above terms. No costs.

(R.M.D., J.) (M.S.Q., J.)
04.07.2022

Internet : Yes
Index : Yes / No
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To

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

2. The Commissioner of Income Tax,
   Puducherry.

3. The Assistant Commissioner of Income Tax,
   Circle - I, Puducherry.

4. The Commissioner of Income Tax (Appeals) - XII,
   Chennai.

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

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TCA Nos.186 and 187 of 2014

04.07.2022