IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM

THE HON'BLE MR.JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

T.C.A. No. 84 of 2014

Commissioner of Income Tax
Chennai ..Appellant

Versus

Thiruvalluvar Ethics
Educational Service Trust
French Teacher Street Extn.,
Karaikal - 609 602
Chennai - 600 001
PAN: AABTT1588K ..Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 12.02.2013 passed by the Income Tax Appellate Tribunal, Chennai 'B' Bench, in I.T.A.No.2204/Mds/2012 against the Commissioner of Income Tax -II No.44, Williams Road, Contonment, Tiruchirapalli dated 21.09.2012 C.No.7162E(19)/CIT-II/TRY 2005-06.

For Appellant : Mr.J.Narayansamy

For Respondent : Mr.S.Namasivayam

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

Heard both sides and perused the materials placed before this court.

2.This appeal filed at the instance of the appellant / Revenue is directed against the order dated 12.02.2013 passed by the Income Tax Appellate Tribunal, 'B' Bench, Chennai, in I.T.A.No.2204/Mds/2012.

3.This Court, by order dated 09.07.2014 admitted the following substantial question of law for consideration:

> "Whether the Tribunal was justified in directing the Commissioner of Income Tax to grant renewal under Section 80G(5)(vi) of the Income Tax Act without any material to show that the activities of the respondent/Trust are charitable in nature?"

4.According to the appellant, the respondent / assessee, which is a trust running in the name and style of Thiruvalluvar Tamil High School at Karaikal, had applied for renewal of exemption under section 80G of the Income-tax Act, 1961 (in short, 'the Act') dated 05.03.2012 and the same was rejected by the Commissioner of Income Tax-II, Tiruchirappalli by order dated 21.09.2012, on the ground that statutory requirement under Section 11(1)(a) of the Act, has not been fulfilled. Aggrieved by the same, the respondent / assessee filed an appeal before the ITAT. The Tribunal, vide order dated 12.02.2013 allowed the appeal and thereby, directed the assessing officer to renew exemption given to the respondent under section 80G(5)(vi) of the Act. Therefore, the appellant / Revenue is before this court with this appeal.

5.To answer the issue involved herein, this court is inclined to look into the findings recorded by the Tribunal in the order impugned herein, which read as follows:

> "4. It is to be seen that the assessee has already been registered under Sec. 12AA of the Act and it is continuing the registration granted under that section. Therefore, it is admitted by the department that the assessee is a charitable trust eligible for other benefits flowing out of the registration under Sec.12AA.
>
> 5.In the paragraph extracted above, the Commissioner of Income-tax himself admits that the assessee is carrying on charitable activity by way of running a Tamil High School at Karaikal for the benefit of the local population. There is no allegation that the assessee trust is diverting any of its income for purposes other than the objects proclaimed by it. There is no case of any private enjoyment of any asset, property or income of the assessee trust. On going through the records of the case, we find that the assessee is carrying on charitable activity by running a Tamil High School for the benefit of poor and people of moderate income.
>
> 6.In the facts and circumstances of the case, we do not find any reason to deny the benefit of sec.80G(5)(vi) to the assessee. Accordingly, we

direct the Assessing Officer to renew exemption given to the assessee under sec.80G(5)(vi) of the Act, from the date of expiry of earlier order granting exemption."

6.This court is of the opinion that after considering the submissions made by the parties and analysing the entire materials placed before it, the Tribunal being the fact finding body, allowed the assessee's appeal. Moreover, the issue involved herein is question of fact and the same does not involve any principle of law, warranting interference. In this regard, it may be useful to refer to the decision of the Hon'ble Supreme Court in Metroark Ltd. v. CCE [(2004) 12 SCC 505], wherein it was held as under:

> "8. Even otherwise, the law on the subject is clear. The Tribunal is the final fact-finding authority. Unless it is shown that there is something perverse in its finding, this Court would not interfere. No authority is required for this purpose. But as a large number of authorities are cited, we refer to them: Pragati Computers (P) Ltd. v. Collector of Customs [(2000) 10 SCC 150], Reliance Silicon (I) (P) Ltd. v. CCE [(1997) 1 SCC 215], Asian Paints India Ltd. v. CCE [(1988) 2 SCC 470 : 1988 SCC (Tax) 201] and Collector of Customs v. Swastic Woollens (P) Ltd. [1988 Supp SCC 796 : 1989 SCC (Tax) 67]."

7.That apart, it is settled law that "a court of appeal interferes not when the judgment under attack is not right, but only when it is shown to be wrong" [Refer: Dollar Co. v. Collector of Madras, (1975) 2 SCC 730].

8. Accordingly, the Tax case Appeal filed by the Revenue stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

dhk

To

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

2. Commissioner of Income Tax
   Chennai.

3. The Commissioner of Income – tax - II,
   Tiruchirapalli.

+1cc to Mr.Namasivayam, Advocate, S.R.No.18861

T.C.A No. 84 of 2014

AD(CO)
RGA(22/04/2022)