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T.C.A.No.134 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

T.C.A.No.134 of 2015

Commissioner of Income Tax,
Chennai.

.. Appellant

-vs-

Indian Institute of Engineering Technology,
363, Arcot Road, Kodambakkam,
Chennai 600 024.

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters patent against the order dated 27.05.2014 passed in ITA No.318/Mds/2014 by the Income Tax Appellate Tribunal, 'D' Bench, Chennai.

For the Appellant

: Mrs.V.Pushpa
Sr. Standing Counsel

For the Respondent

: Mr.R.Veniatanarayanan
for M/s.Subbaraya Aiyar
Padmanabhan

* * * * *



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JUDGMENT

(Judgment of the Court was made by R.Suresh Kumar, J.)

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This appeal has been directed against the order passed by the Income Tax Appellate Tribunal in ITA No.318/Mds/2014 dated 27.05.2014 for the Assessment Year 2010-2011.

2. Though Mr.Venkatanarayanan, learned counsel appearing for the respondent/assessee, has stated that this appeal is covered by low tax effect, Mrs.V.Pushpa, learned senior standing counsel for the appellant/Revenue, has stated that there has been no instructions from the Department with regard to the low tax effect and therefore, the issue raised in this appeal has to be decided on merits.

3. We have heard learned counsel for the appellant/Revenue as well as learned counsel for the respondent/Assessee.

4. The respondent/Assessee is a charitable trust basically runs an educational institution at Chennai. In fact, the assessee trust was established in the year 1961, that is, on 01.02.1961, that is before the commencement of



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the Income Tax Act, 1961.

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5. As per the Memorandum of Association of the assessee trust, especially under clauses 36-41, there have been provisions available to pay honorarium to the trust members or their family members.

6. Herein the case on hand, during the previous year of Assessment Year 2010-2011, the revenue of the Trust was Rs.6,11,56,935/-. Since the assessee trust already registered under Section 12A(a) of the Act, it claims total exemption under Section 11 of the Act for the income registered by the assessee trust. That, in fact, was considered and rejected by the Assessing Authority on the ground that the trust had spent a sum of Rs.1,13,400/- towards one Meenakshi Sundararajan, who is the wife of the founder of the trust. By virtue of the said amount of Rs.1,13,400/- having been spent to the individual, it was considered to be violation of Section 13(1)(c) of the Act, thereby, according to the Assessing Authority, the assessee Trust had lost the entitlement of claiming exemption under Section 11 of the Act. Therefore, the income of Rs.6,11,56,935/- was to be considered as a taxable



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income.

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7. The other issue that was also raised in the case was that there has been a depreciation sought for which also had been considered and rejected by the Assessing Authority.

8. When appeal had been carried by the assessee to the CIT (Appeals), the order of the Assessing Authority has been confirmed as against which the assessee preferred the appeal before the Income Tax Appellate Tribunal.

9. The Income Tax Appellate Tribunal has held that the first issue with regard to the rejection of the claim made by the assessee trust for getting exemption under Section 11 of the Act is concerned, the payment of Rs.1,13,400/- to the said Meenakshi Sundararajan cannot be construed as a violation of Section 13(1)(c) of the Act because the trust was established well before the Act came into force, that is, on 01.02.1961 and the Memorandum of Association of the trust had paved the way for making this



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amount of honorarium to the trustees. When that being so, it is strictly in consonance with the Memorandum of Association and therefore, it cannot be construed as a violation of Section 13(1)(c).

10. The Income-tax Appellate Tribunal also has considered this aspect within the meaning of Sections 13(1)(c), 13(2) and 13(3) of the Act and has dealt with the issue in the following manner:

"8. It is the case of the assessee that the lower authorities have erred in holding that sec.13(1)(c), 13(2) and 13(3) are attracted in respect of honorarium, ex-gratia and medical expenses of Rs.1,13,400/- paid to Ms.Meenakshi Sundararajan, who is the wife of the founder of the trust. It is the case of the assessee that the lower authorities have overlooked the first proviso to sec.13(1)(c)(ii), which provides that the provisions of sub-clause(ii) shall not apply, to a trust or institution created or established before the commencement of this Act, to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-sec.(3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution.



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9. *In the present case, the assessee trust has been created on 1.2.1961. This is before the commencement of the Income-tax Act, 1961. As per clauses 36 to 41 of the Memorandum of Association of the assessee trust, Ms.Meenakshi Sundararajan is entitled for honorarium in rendering services to the benefits of the assessee society. Therefore, as rightly argued by the learned counsel, the payment made to Ms.Meenakshi Sundararajan is covered by the said exemption. Therefore, we hold that the lower authorities have grossly erred in holding that the assessee is not entitled for exemption under sec.11 of the Act."*

Therefore, the Tribunal has come to the conclusion that the assessee is entitled to claim exemption under Section 11 of the Act. When that being so, the Assessing Authorities' move to treat the entire income as a taxable income is erroneous and therefore, the assessment order passed by the Assessing Authority as confirmed by the CIT (Appeals) has been reversed.

11. Insofar as the other issue with regard to the claim of depreciation is concerned, the Tribunal followed its own decision in M/s.Mohamed Sathak Trust in ITA.Nos.1436 and 2159/Mds/2012 dated 30.10.2013 and



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also decided the said issue in favour of the assessee.

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12. We have gone through the decision and the reasoning given by the Tribunal in the order impugned to decide both the issues in favour of the assessee, with which, we are in full agreement and therefore, we do not find any plausible reason to interfere with the said decision of the Tribunal. Hence, the substantial questions of law are to be decided and answered in favour of the assessee. Accordingly, the substantial questions of law are answered in favour of the respondent/assessee and against the appellant/Revenue.

Resultantly, the tax case appeal fails and is, accordingly, dismissed.

However, there is no order as to costs.

(R.S.K., J.) (C.S.N., J.)
10.09.2024

Index : Yes/No
NC : Yes/No

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R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.

(sra)

To

1. The Registrar,
Income Tax Appellate Tribunal,
'D' Bench, Chennai.
2. The Commissioner of Income-tax
(Appeals)-VII, Chennai.
3. The Deputy Director of Income-tax
(Exemptions)-III, Chennai.

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