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T.C.A.No.161 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

Tax Case Appeal No.161 of 2024

M/s.SAE India
No.1/117, Cee Bros Arcade
II Floor, III Cross, Kasurba Nagar
Adyar, Chennai 600 020.
PAN No.:AADTS3913K

... Appellant

Vs.

The Deputy Commissioner of Income Tax
(Exemptions), Chennai Circle
Income Tax Department, Chennai-600 034.

... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 20.10.2023 passed by the Income Tax Appellate Tribunal in ITA No.3158/2018.

For Appellant : Mr.A.S.Sriraman
For Respondent : Mrs.V.Pushpa
Senior Standing Counsel

J U D G M E N T

(Delivered by C.SARAVANAN, J.)

The appellant is before this Court against the impugned order dated 20.10.2023 passed by the Income Tax Appellate Tribunal in ITA No.3158/Chn/2018 for the assessment year 2013-14. Relevant portion of the



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impugned order reads thus:

" 10. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. We have carefully considered the objects of the assessee's Trust as per their Memorandum of Association and as per the objects, the assessee is conducting technical meetings, workshops, seminars and other educational programs and specialty conference for development of Mobility Engineering etc., On perusal of main objects of the assessee's Trust and activities carried out for the impugned assessment year, it is undoubtedly clear that the assessee falls under the last limb of the definition of 'charitable purpose' as defined under Section 2(15) of the Act i.e., any other object of GPU, and this principle is supported by the decision of the Hon'ble Supreme Court in the case of ACIT Vs. Ahmedabad Urban Development Authority (supra), wherein, it has been clearly held that Trust / Societies which provides services in relation to trade, commerce or business for fees or other consideration has to be broadly covered by trade promotion. Further, when a trade promotion provides individualized or specialized services such as conducting paid workshops, training courses, skill development courses, and other services to promote and advertise their respective businesses, the claim for GPU status needs to be scrutinized in light of provisions of Sec.2(15) of the Act. In the present case, the objects of assessee's Trust and its activities are clearly in the nature of GPU activity, and thus, in our considered view, the exemption, if any, needs to be examined in the light of provisions of Sec.2(15) of the Act. The Ld. CIT(A) without considering relevant facts simply held that the assessee is not hit by the amended provisions of Sec.2(15) of the Act, and thus, we set aside the order of the Ld.CIT(A) on this issue.



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11. Having said so, let us come back to the applicability of proviso to Sec.2(15) of the Act. As per proviso to Sec.2(15) of the Act, the advancement of any other object of GPU shall not be a 'charitable purpose', if it involves carrying on any activity in the nature of trade, commerce or business or any activity in the nature of trade, commerce, or business or activity of rendering any service in relation to any trade, commerce, business for a fees or cess and further the aggregate receipt from such activity during the previous year, exceeds 20% of the total receipt of the Trust or Institution. In the present case, undoubtedly, the objects and activities of the Trust are in the nature of trade, commerce or business and hit by proviso to Sec.2(15) of the Act. Therefore, the assessee's entitlement for exemption needs to be examined in the light of gross-receipts and receipts from the activity of trade, commerce or business. The gross income of the assessee from conducting conference is more than 20% of the gross-receipts of the assessee for the impugned assessment year. We have gone through the computation filed by the assessee's Society and we find that the Ld.counsel for the assessee has considered net income after expenses from conducting conference and then, compared with gross-receipts of the assessee to work out the limit prescribed under provisions of Sec.2(15) of the Act. In our considered view, the working finished by the Ld.counsel for the assessee is not in accordance with law, because, as per provisions of Sec.2(15) of the Act, if gross receipts from the GPU activity, ie., from trade, commerce or business exceeds U/s.11 of the Act. If you consider the gross receipts from conducting conferences, then undisputedly, said receipts exceeds 20% of the gross receipts of the assessee's Trust for the impugned assessment year. But, fact needs to be verified with reference to financial statement of the assessee for relevant AY."



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2. In our view, no substantial question of law arises for consideration in the facts of the case. The Tribunal being the ultimate fact finding authority, the findings of facts of the Tribunal cannot be interfered under Section 260A of the Income Tax Act, 1962. We do not find any infirmity in the impugned order remanding the case back to the assessing officer. In fine, the Tax Case Appeal fails and it is dismissed. No costs.

(R.S.K.,J.) (C.S.N.,J.)
29.08.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Income Tax Appellate Tribunal
Chennai.



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R.SURESH KUMAR, J.
AND
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