



T.C.A.No.582 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08-07-2025**

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

TCA NO. 582 of 2013

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Director Of Income Tax Exemptions,
Chennai.

Appellant(s)

Vs

M/s Trinity Educational Trust
No.2 2nd Cross, 5th St Sitharam Nagar,
RV Nagar Post,
Chennai – 600 118.

Respondent(s)

Prayer : Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 21.03.2013 passed in ITA No.2279/Mds/2012 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench.

For Appellant(s):

M/s.V.Pushpa
Senior Standing Counsel

For Respondent(s):

Mr.R.Vijayaraghavan
For M/s.Subbaraya Aiyar
and Padmanabhan



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JUDGMENT

(Judgment of the Court was delivered
by the Hon'ble Chief Justice)

Assessee had applied on 31.05.2012 in Form No.10A to the Director of Income Tax (Exemptions), Chennai [hereinafter referred to as 'DIT(E)'] seeking registration under Section 12AA of the Income Tax Act, 1961 [hereinafter referred to as the '**Act**'].

2. Appellant with whom the application was filed sought for further details, which were supplied. It is recorded in the order of 27.11.2012 passed by appellant that the settlors/trustees of applicant trust never appeared for hearing.

3. After considering the documents, appellant rejected the application by holding that applicant trust did not qualify as a Public Charitable Trust under Section 12A of the Act.

4. The four grounds on which the application was rejected are that:



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(a) Though the Trust Deed was executed on 22.07.1991, for the first time an application under Section 12AA of the Act was filed only on 31.05.2012, almost over twenty years later.

(b) A clause in the Trust Deed appeared to be repugnant to the claim of applicant Trust that it was a Public Charitable Trust for the benefit of general public.

(c) The powers given to the trustee are by way of a Supplementary Deed of Trust executed on 06.04.2009, which was not permissible, since the trust deed could be amended only by the Court provided it satisfies the requirements of Section 92(3) of the Code of Civil Procedure.

(d) For the year ending 31.03.2010, applicant trust received school fees of Rs.38.58 lakhs and out of the same, almost Rs.19.48 lakhs was in excess of its expenditure. Similarly, for year ending 31.03.2011, school fees received was about Rs.36.18 Lakhs and the excess was Rs.18.30 Lakhs. That gives an impression that the trust, although claiming to be a charitable one, is being run on commercial lines.



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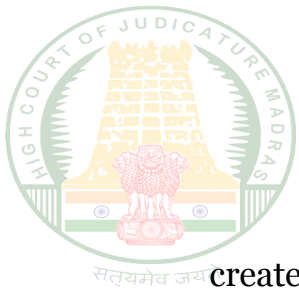
5. The trust, which is assessee, aggrieved by the order of the DIT (E) preferred an appeal before the Income Tax Appellate Tribunal [hereinafter referred to as '**ITAT**']. The ITAT, vide order pronounced on 21.03.2013, allowed the appeal and directed appellant DIT (E) to grant the registration under Section 12AA of the Act. This order has been implemented and by an order dated 18.11.2013, registration under Section 12AA of the Act has been granted with a rider, "*subject to outcome of the appeal filed by the department against the ITAT's order before the Hon'ble High Court of Madras, as 'Public Charitable Trust' with effect from 31.05.2012*".

6. The appeal came to be admitted on 10.04.2014 and the following substantial question of law was framed:-

“Whether on the facts and in the circumstances of the case, the Tribunal was right in directing the DITE to grant registration under Section 12AA?”

7. In our view, the ITAT was justified in allowing the appeal.

8. Section 11 of the Act deals with income from property held for charitable or religious purposes. Section 12 of the Act deals with income of trusts or institutions from contributions and particularly received by a trust



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created wholly for charitable or religious purposes. Section 12A of the Act provides for the conditions for applicability of Sections 11 and 12 of the Act and Section 12AA of the Act provides the procedure for registration.

9. The advantage of getting registration under Section 11 or 12 of the Act is that the income of the trust derived from any property or received from any voluntary contributions shall not be included in the total income of the previous year. Therefore, trust created for charitable purposes gets itself registered under Section 12A of the Act and while considering the application under Section 12A of the Act, the DIT (E) follows the procedure prescribed under Section 12AA of the Act. What is charitable purpose is defined under Section 2(15) of the Act. Section 2(15) in 2012, reads as under :

Charitable purpose: included relief of the poor, education, medical relief and the advancement of any other object of general public utility.

10. Therefore, charitable purpose would include education. Admittedly, assessee trust was formed for a charitable activity of education. Assessee was running a school. Appellant has refused registration on the four grounds mentioned above.



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11. We deal with the four grounds as under.

(a) The fact that applicant sought for first time registration under Section 12AA of the Act, after twenty years of executing the trust deed cannot be a bar for registration. There is no provision which has been cited to show that the registration should have been applied for within an earlier period. In fact, it indicates, for the first time, assessee has thought of applying for tax exemption.

(b) (i) Just because lineal descendants of the Founder Trustee shall *ipso facto* become life trustees and one among them shall be the Managing Trustee, it cannot mean that assessee trust is not formed for the benefit of general public.

(ii) In our view, this clause has been inserted only because family members of the Founder Trustee would control and manage the trust more efficiently. If the beneficiaries were only the family members, then perhaps appellant could have formed such an opinion, though we do not subscribe



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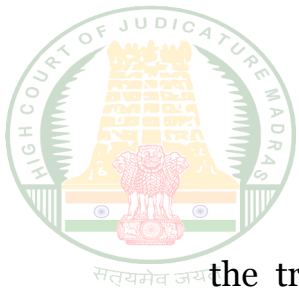
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to the view that in every case it has to be so. It will depend on facts and circumstances of each case.

(c) (i) On the additional powers given to the Board of Trustees by way of the Supplementary Deed of Trust, the judgment of the Supreme Court in ***Trustees of H.E.H. The Nizam's Pilgrimage Money Trust v. Commissioner of Income Tax***¹ will not be applicable to the facts of this case.

(ii) That was a case where H.E.H. the Nizam of Hyderabad had created a trust with a corpus fund of Rs.22,20,000/-. The objects of the trust, *inter alia*, are to meet, during life time of the Nizam, the expenses of Haj pilgrimage of himself and members of his family accompanying him on such pilgrimage and expenses on visits to holy places of Hedjaz, Iraq etc. After the death of the Nizam, the net income and the unspent accumulations of income were to be spent or utilized by the trustees for all or any of the religious or charitable purposes specified in the trust deed. After his death, the trust became a public charitable and religious trust and

¹ (2000) 243 ITR 676 (SC)



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the trustees held the corpus and accumulations of income of the trust thereunder. In those circumstances, the permission of the Court was sought to amend the trust deed.

(iii) However, in the case on hand, the trustees/the creators of the trust themselves issued a Supplementary Trust Deed giving more powers to the trustees. Therefore, the Supplementary Trust Deed should be read as part of the original Trust Deed. This finding of ours will answer Ms.Pushpa's submission that the original trust deed provided that any amendment to the trust deed shall be made only with the prior approval of the Commissioner of Income Tax. There was no such amendment of the original trust deed and hence, his permission was also not required.

(d) As regards the ground of not spending even 50% of the income, there is no provision in the Act that to get registration under Section 12A of the Act, a trust should be spending over 50% of its income. In fact, if a trust is created within a year and an application is filed, this issue would not have arisen. Ms.Pushpa submitted that Section 11 of the Act requires spending atleast 85% of the income on charitable activities. That would



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come into effect only after a registration is granted while claiming exemption and not required for the purpose of applying for a registration.

12. Added to this, we do not find that it is DIT (E)'s case that the surplus income generated by the trust is diverted to the benefit of the trustees. He has not doubted any of the charitable activities of the trust. Just because there is surplus in the hands of assessee trust, it cannot be presumed that assessee trust is running on commercial lines.

13. In these circumstances, the question of law is answered in favour of assessee.

The Tax Case Appeal is dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.) (SUNDER MOHAN J.)
08-07-2025

Index : Yes
Neutral Citation : Yes



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To

1.M/s Trinity Educational Trust
No.2 2nd Cross 5th St Sitharam Nagar Rv Nagar Post
Ch-118

2. The Income Tax Appellate Tribunal,
Madras 'C' Bench.



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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

(ars/dk)

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