



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

**THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED**

T.C.A.No. 121 of 2013

Director Of Income Tax (Exemptions),
Chennai.

... Appellant/Respondent

Vs.

The Institute Of Chartered Shipbrokers,
Madras Branch,
No.6 II Floor Indian Chambers Building,
Esplanade, Chennai – 600 018.

... Respondent/Appellant

Prayer: Tax Case Appeal filed under Section 260 A of Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal Madras 'A' Bench, dated 30.07.2012 in ITA.No.348/Mds/2012.

For Appellant: Mr. J.Narayanaswamy

For Respondent: M/s.Muthu Abirami

ORDER

(Order of the Court was made by G.Jayachandran J.)

The respondent-Institute Of Chartered Shipbrokers, Madras Branch was granted registration under Section 12AA of the Income Tax Act, vide order dated 09.08.2000. Subsequently, in view of amendment to the definition of 'Charitable purpose' under Section 2(15), the functioning of the said Trust was



scrutinised and the recognition granted as trust was withdrawn in exercise of power under Section 12AA(3). This withdrawal was challenged before the Tribunal. The Tribunal, taking into consideration the objects of assessee Trust, its functioning and the judgment rendered in ***Director of Income Tax (Exemptions) vs. Chartered Accountants Study Circle reported in [2012] 347 ITR 321 (Madras)***, allowed the appeal of the assessee. Hence, the Department is before this Court challenging the order passed by the Tribunal, restoring the status of the respondent trust.

2. The Learned Counsel appearing for the Revenue submitted that the power of the Department to withdraw/cancel the status of trust, in the light of amendment brought under Section 2(15) of Income Tax Act, was challenged before various Courts and ultimately, the Hon'ble Supreme Court, in a batch of appeals, had given directions to the authorities how to test a Society or trust to falls within the scope and ambit of Section 2(15) of Income Tax Act. Applying the said directions, the respondent will not fall within the meaning of a trust under Section 2(15) of the Act.

3. Per contra, the Learned Counsel for the respondent submitted that the Institution has been conducting educational activities through the Loyal Society at London and only after scrutinising the records, the Tribunal has set aside the



order of cancellation. Further, it is contended by the Learned Counsel for the respondent that cancelling the status of a trust must be only within the framework of Section 12AA (3) of the Act. Since, in this case, there is no material to doubt the genuineness of the respondent's activities as a trust, the cancellation order is erroneous. The Tribunal has rightly set aside the order.

4. We have given anxious consideration to the above submissions. We find that the objects of the respondent's institution is as below:-

a. To hold conferences and meetings for the discussion of professional-affairs and interests, to collect, collate and publish information of service or interest for the benefit of all participants of the shipping industry and the public at large.

b. To ascertain and disseminate knowledge of the law and practice relating to all aspects of the profession or business of ship broking.

c. To vet suitable candidates for admission to the test conducted by the Institute of Chartered ShipBrokers, London.

d. To exercise supervision over the members of the Institute and secure for them such professional standing as may assist them in the discharge of their duties.

5. Whereas, it is contended that the Institution is conducting educational programmes for the persons involved in the shipping industry and the Institution is the only Institution imparting such education and therefore, entitled for status



of a trust. However, the objects on the face of it, indicate that the Institution primarily concentrates on disseminate knowledge of law and practice relating to all aspects of the profession or business of ship broking by conducting conferences and meetings for the discussion of professional affairs and interests.

6. In this regard, the General Test under Section 2(15) of Income Tax Act, as postulated by the Hon'ble Supreme Court in ***Assistant Commissioner of Income Tax (Exemptions) vs. Ahmedabad Urban Development Authority***, reported in ***[2022] 449 ITR 1 (SC)***, has held as below:-

“270. It is clarified that an assessee advancing general public utility cannot engage itself in any trade, commerce or business, or provide service in relation thereto for any consideration (“cess, or fee, or any other consideration”).

271. However, in the course of achieving the object of general public utility, the trust, society, or other such organisation concerned, can carry on trade, commerce or business or provide services in relation thereto for consideration, provided that (i) the activities of trade, commerce or business are connected (“actual carrying out ...” inserted w.e.f. 1-4-2016) to the achievement of its objects of GPU; and (ii) the receipt from such business or commercial activity or service in relation thereto, does not



exceed the quantified limit, as amended over the years (Rs 10 lakhs w.e.f. 1-4-2009; then Rs 25 lakhs w.e.f. 1-4-2012; and now 20% of total receipts of the previous year, w.e.f. 1-4-2016).

272. Generally, the charging of any amount towards consideration for such an activity (advancing general public utility), which is on cost-basis or nominally above cost, cannot be considered to be “trade, commerce, or business” or any services in relation thereto. It is only when the charges are markedly or significantly above the cost incurred by the assessee in question, that they would fall within the mischief of “cess, or fee, or any other consideration” towards “trade, commerce or business”. In this regard, the Court has clarified through illustrations what kind of services or goods provided on cost or nominal basis would normally be excluded from the mischief of trade, commerce, or business, in the body of the judgment.

273. Section 11(4-A) must be interpreted harmoniously with Section 2(15), with which there is no conflict. Carrying out activity in the nature of trade, commerce or business, or service in relation to such activities, should be conducted in the course of achieving the GPU object, and the income, profit or surplus or gains must, therefore, be incidental. The requirement in Section 11(4-A) of maintaining separate books of account is also in line with the necessity of demonstrating that the quantitative limit prescribed in the proviso to Section



2(15), has not been breached. Similarly, the insertion of Section 13(8), seventeenth proviso to Section 10(23-C) and third proviso to Section 143(3) (all w.r.e.f. 1-4-2009), reaffirm this interpretation and bring uniformity across the statutory provisions.”

7. Paragraph 218 of ***Ahmedabad Urban Development Authority*** (*supra*), clarifies that institutions such as the respondent, which claims GPU status, need to be scrutinised more closely and such activities are in the nature of service “in relation to” trade, commerce or business.

8. The Hon’ble Supreme Court, in the aforesaid judgment, under the Chapter ‘Summation of Conclusion,’ has held as below:

D. Trade promotion bodies

Bodies involved in trade promotion (such as AEPC), or set up with the objects of purely advocating for, coordinating and assisting trading organisations, can be said to be involved in advancement of objects of general public utility. However, if such organisations provide additional services such as courses meant to skill personnel, providing private rental spaces in fairs or trade shows, consulting services, etc. then income or receipts from such activities, would be business or commercial in nature. In that event, the claim for tax exemption would have to be again subjected to the rigours of the proviso to Section 2(15) of the IT Act.



H. Application of interpretation

At the cost of repetition, it may be noted that the conclusions arrived at by way of this judgment, neither precludes any of the assesseees (whether statutory, or non-statutory) advancing objects of general public utility, from claiming exemption, nor the Taxing Authorities from denying exemption, in the future, if the receipts of the relevant year exceed the quantitative limit. The assessing authorities must on a yearly basis, scrutinise the record to discern whether the nature of the assessee's activities amount to "trade, commerce or business" based on its receipts and income (i.e. whether the amounts charged are on cost-basis, or significantly higher). If it is found that they are in the nature of "trade, commerce or business", then it must be examined whether the quantified limit (as amended from time to time) in the proviso to Section 2(15), has been breached, thus disentitling them to exemption.

9. On cumulative reading of the judgment of the Hon'ble Supreme Court, which now governs the field, we are of the view that the case of the respondent has to be examined in the light of the Hon'ble Supreme Court judgment rendered in *Assistant Commissioner of Income Tax (Exemptions) vs. Ahmedabad Urban Development Authority*, reported in [2022] 449 ITR 1 (SC).



10. Hence, we direct the Directorate of Income Tax (Exemption), Chennai, to re-examine the case of the respondent afresh and pass orders within a period of three months, following the dictum laid by the Hon'ble Supreme Court in *Assistant Commissioner of Income Tax (Exemptions) vs. Ahmedabad Urban Development Authority (cited supra)*.

11. Accordingly, the Tax Case Appeal is disposed of. There shall be no order as to costs.

(G.JAYACHANDRAN, J.) & (SHAMIM AHMED J.)
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Index :Yes/No
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