

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2014

CORAM

THE HON'BLE MR.JUSTICE R.SUDHAKAR
AND
THE HON'BLE MR.JUSTICE R.KARUPPIAH

T.C.(A).Nos.270 of 2014
and 829 of 2013

Commissioner of Income Tax-I
2, V.P.Ratnasamy Road
Madurai – 625 002.

.. Appellant

Vs.

Katie Wilcox Education Association
No.1, Lady Doak College Campus
Madurai – 625 002
PAN: AAAAK0221A

.. Respondent

PRAYER in T.C.(A) No.270 of 2014: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 19.8.2011 made in I.T.A.No.1446/Mds/2011.

PRAYER in T.C.(A) No.829 of 2013: Appeal under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal 'C' Bench, Chennai, dated 22.2.2013 made in I.T.A.No.2147/Mds/2012.

For Appellant : Mr.M.Swaminathan
in both appeals Standing Counsel

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J U D G M E N T
(Delivered by *R.SUDHAKAR, J.*)

Tax Case (Appeal) No.270 of 2014 is filed by the Revenue challenging the order of the Income Tax Appellate Tribunal 'A' Bench, Chennai, dated 19.8.2011 made in I.T.A.No.1446/Mds/2011, raising the following questions of law:

- (i) Whether the Tribunal was right in granting exemption under Section 12A of the Income Tax Act when the main object of the assessee is religious in nature and other objects are admixture of charitable and religious in nature which are not eligible for exemption under Section 11 of the Act?
- (ii) Whether the Tribunal was right in its perverse inference when the assessee trust has mixed objects and the assessee was hit by the provisions of Clauses (a) and (b) of Section 13(1) of the Act, because of the objects contained in III.A.1 and III.A.6 of the Memorandum?
- (iii) Whether the Tribunal was right in following the decision of the Supreme Court in *State of Kerala v. M.P.Shanthi Verma Jain*, (1998) 231 ITR 787?

2. T.C.(A) No.829 of 2013 is filed by the Revenue challenging the order of the Income Tax Appellate Tribunal 'C' Bench, Chennai, dated 22.2.2013 made in I.T.A.No.2147/Mds/2012, for the assessment year

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2009-2010, raising the following questions of law:

- (i) Whether the Tribunal was right in granting exemption under Section 10(23C)(iiiab) of the Act when the institution was neither wholly nor substantially financed by the Government during the assessment year?
- (ii) Whether the Tribunal was right in granting exemption when the assessee forfeited the exemption under Sections 11 and 12 read with Section 13(1)(b) of the Act in view of clause IIIA(1) and IIIA(6) of the Memorandum of Association?
- (iii) Whether the Tribunal was right in dismissing the department appeal when the earlier order of the same assessee is under challenge by the department before this Court and the same is pending disposal?

3. Mr.M.Swaminathan, learned Standing Counsel appearing for the Revenue fairly submits that the questions of law raised in T.C.(A) No.270 of 2014 have already been answered against the Revenue by this Court in *Director of Income Tax (Exemptions) v. Seervi Samaj Tambaram Trust*, [2014] 362 ITR 199.

4. He further submits that the order passed by the Tribunal, which is the subject matter of appeal in T.C.(A) No.829 of 2013, is a consequential

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order passed on the basis of the order impugned in T.C.(A) No.270 of 2014 and, therefore, the T.C.(A) No.829 of 2013 may be disposed of in terms of the order to be passed in T.C.(A) No.270 of 2014.

5. In the light of the decision of this Court in *Seervi Samaj Tambaram Trust* case, referred supra, the substantial questions of law raised in T.C.(A) No.270 of 2014 are answered against the Revenue and T.C.(A) No.270 of 2014 is dismissed.

6. It is seen that the order impugned in T.C.(A) No.829 of 2013 is passed based on the order under challenge in T.C.(A) No.270 of 2014. As this Court is dismissing T.C.(A) No.270 of 2014, nothing survives for determination in T.C.(A) No.829 of 2013 and accordingly, the same is dismissed finding no question of law, much less substantial question of law, warranting consideration of this Court.

In the result, both the appeals are dismissed.

(R.S.J.) (R.K.J.)
18.11.2014

Index : No
Internet : Yes

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To:

1. The Assistant Registrar,
Income Tax Appellate Tribunal
Chennai Bench "A", Chennai.
2. The Assistant Registrar,
Income Tax Appellate Tribunal
Chennai Bench "C", Chennai.
3. The Secretary, Central Board
of Direct Taxes, New Delhi.

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R.SUDHAKAR,J.
and
R.KARUPPIAH,J.

(sasi)

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