IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

WEDNESDAY, THE 8TH DAY OF OCTOBER 2014/16TH ASWINA, 1936

ITA.No. 131 of 2014 ()

AGAINST THE ORDER IN ITA 503/COCH/2013 of I.T.A.TRIBUNAL,COCHIN BENCH DATED 29-11-2013

APPELLANT/APPELLANT/APPLICANT:

M/S.GCDA EMPLOYEES' PENSION FUND TRUST
GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHARA
KOCHI-682 020
REPRESENTED BY TRUSTEE, THE SECRETARY
GREATER COCHIN DEVELOPMENT AUTHORITY.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.M.B.PRAJITH
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT/RESPONDENT :

THE COMMISSIONER OF INCOME TAX-I
C.R.BUILDING, I.S.PRESS ROAD, KOCHI-682 018.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 08-10-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN ITA.131/14

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF DEED OF TRUST DT.9.2.06.

ANNEXURE B: COPY OF AMENDMENT TO THE DEED OF TRUST DT.30.1.08.

ANNEXURE C: COPY OF ORDER NO.ITA.NO.CIT/CHN/T/12A/2012-13 DT.28.12.12 ISSUED BY THE RESPONDENT.

ANNEXURE D: COPY OF ORDER NO.ITA.NO.503/COCH/2013 DT.29.11.2013 OF ITAT COCHIN BENCH, COCHIN.

ANNEXURE E: COPY OF GOVERNMENT ORDER GO(MS)NO.201/94/LAD DT.31.8.94.

ANNEXURE F: COPY OF COMMUNICATION DT.22.9.2014 ALONG WITH ACCOMPANYING STATEMENT ANNEXURE _A RECEIVED FROM THE CPIO & INCOME TAX OFFICER(H), TRIVANDRUM.

ANNEXURE G: COPY OF CIRCULAR NO.53/2013/FIN. DT.11.6.2013 ISSUED BY GOVERNMENT OF KERALA, FINANCE (PENSION-A) DEPARTMENT.

ANNEXURE G(A): COPY OF GO(P)NO.87/2011/FIN. DT.28.2.11.

ANNEXURE G(B): COPY OF CIRCULAR NO.11/08 DT.12.12.08 ISSUED BY THE MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI.

ANNEXURE G(C): COPY OF GO(P)NO.185/2002/FIN. DT.27.3.2002.

RESPONDENTS' ANNEXURES: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANTONY DOMINIC & ANIL K.NARENDRAN, JJ.

I.T.A.No.131 OF 2014

DATED THIS THE 8th DAY OF OCTOBER, 2014

JUDGMENT

ANTONY DOMINIC , J.

This appeal is filed against the order passed by the Income-tax Appellate Tribunal in I.T.A.No.503/Coch/2013 by which, the order passed by the Commissioner of Income-tax rejecting the application made by the appellant for registration under Section 12AA of the Income-tax Act('the Act' for short) was rejected.

2. We heard the learned Senior Counsel for the appellant and the learned Standing Counsel for the respondents.

3. The facts of the case are that, the appellant is a Trust. The object of the Trust is to pay pension to the employees of the Greater Cochin Development Authority (GCDA) from the corpus created out of the contributions made by the employees of the GCDA itself. Taking the view that the said object of the Trust did not spell out any charitable purpose as defined in Section 2(15) of the Act, registration under Section 12AA was declined and was affirmed by the Income-tax Appellate Tribunal.

4. The learned Senior Counsel for the appellant contended

that even if it is true that the distribution of pensionary benefits is to the employees of the GCDA itself, this activity of the Trust is general public utility attracting the provisions of Section 2(15) of the Act and that therefore the Trust is entitled to registration as prayed for. The learned Senior Counsel also placed reliance on the judgments in **Commissioner of Income Tax** v. **Bar Council of Maharashtra** ((1981) 130 ITR 28 (SC), **Hiralal Bhagawati** v. **Commissioner of Income Tax** ((2000) 246 ITR 188 (Guj), **Coffee Board** v. **Dy. Commissioner of Agricultural Income Tax** (1964) 52 ITR 126(Mys.), **Commissioner of Income Tax** v. **Andhra Chamber of Commerce** (1965) 55 ITR 722 (SC), **Commissioner of Agricultural Income Tax** v. **Rubber Board** (1997) 226 ITR 722 (Ker), **Commissioner of Income Tax** v. **Ahmedabad Rana Caste Association** (1983) 140 ITR 1 (SC) and **Norka Roots** v. **Commissioner of Income Tax** (2010) 320 ITR 733 in support of his contentions.

5. As we have already stated, the object of the Trust is to pay pension to the employees of the GCDA or their dependents from out of the corpus collected from the beneficiaries themselves. In other words, the employees of the GCDA are contributing and from

out of that contribution, they or their dependents are getting pension. Such an object implemented by the appellant-Trust cannot be said to be an object of general public utility attracting Section 2 (15) of the Act. The decisions cited by the learned Senior Counsel are all cases where the beneficiaries are persons other than the contributories and therefore the principles laid down in those cases are not applicable to the facts of this case. The learned Senior Counsel also made reference to the list of other institutions which are registered under Section 12AA of the Act. The eligibility for registration depends upon the object of each of those Trusts. Such objects are not before us. In such circumstances, we are unable to rely on the list now provided to us.

6. We therefore do not find any reason to disagree with the view taken by the Income-tax Appellate Tribunal.

The Income-tax Appeal fails and the same is dismissed.

Sd/-
ANTONY DOMINIC,
JUDGE

Sd/-
ANIL K.NARENDRAN,
JUDGE

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