

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

(1) INCOME TAX APPEAL No. 25 of 2001

HH RAJDADIJI SMT.BADAN KANWAR MEDICAL TRUST
V/S
C I T

(2) INCOME TAX APPEAL No. 26 of 2001

HH RAJDADIJI SMT.BADAN KANWAR MEDICAL TRUST
V/S
C I T & ANR

(3) INCOME TAX APPEAL No. 27 of 2001

HH RAJDADIJI SMT.BADAN KANWAR MEDICAL TRUST
V/S
C I T JODHPUR & ANR

(4) INCOME TAX APPEAL No. 28 of 2001

HH RAJDADIJI SMT.BADAN KANWAR MEDICAL TRUST
V/S
C I T JODHPUR & ANR

Mr. Ramit Mehta, for the appellant / petitioner.
Mr. KK BISSA, for the respondents.

Date of Order : 16.1.2008

HON'BLE SHRI N P GUPTA, J.

HON'BLE SHRI DEO NARAYAN THANVI, J.

ORDER

All these four appeals involve common question, as to whether the Tribunal was right in holding that the hospital and the trust in question are two different and separate

taxable entities, and as to whether in the facts and circumstances of the case, running of the hospital for charitable purposes, is the only activity undertaken by the Trust and is, therefore, entitled for exemption in respect of its income arising out of the activities of running the hospital under Section 10(22A) of the Income Tax Act, 1961, hereinafter referred-to as "the Act"?

The learned Tribunal has found that the exemption is available under Section 10(22A) of the Act only, and has held that the assessee is entitled to exemption in respect of income, which is received from the hospital activity, as the hospital has been found, during the relevant period in all the four appeals, to be run for philanthropic purposes, and not for the purposes of profit. The contention of the learned counsel for the appellant is, that the hospital is only activity of the Trust and they are not two independent entities and, therefore, the entire income of the Trust was required to be allowed exemption as envisaged under Section 10(22A). As against this, despite finding the assessee to be eligible to exemption under Section 10(22A), the income derived from the hospital activity only has been exempted, and not the other income, which is wrong.

We have examined the contention.

We would do better by reproducing the provisions of Section 10(22A) as they existed at the relevant time, as they have now been deleted with effect from 1.4.1999, which reads as under:

“(22A) any income of a hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit.”

A bare reading of the aforesaid provision does make it clear that this provision does not comprehend anything like a Trust, or any one or more activities undertaken by the Trust, rather exemption is available to any income of the hospital, or other institution as defined under Section 10(22A) of the Act, subject to the condition that it should exist solely for the philanthropic purposes and not for the purposes of making profit. From perusal of the order of the Tribunal, it is clear that the learned Tribunal has already granted exemption with respect to the entire income of the hospital under Section 10(22A) of the Act by partly modifying and affirming the finding of the C.I.T. (Appeals).

That being the position, the mere fact that the assessee Trust claims to be a Trust, existing solely for the purposes of running the hospital, by itself, would not

entitle the assessee to exemption, beyond the one permissible under Section 10(22A) of the Act.

Much stress was laid on the expression "or other institution" used in Section 10(22A) by contending that this expression includes the assessee Trust. We are afraid, we cannot accept this contention, as the expression mentioned above, is not an expression to that extent only by itself, rather the expression comprises of "other institution for the reception and treatment of persons suffering from illness or mental defectiveness...." Thus, the "other institution" has to be for the purposes mentioned above, or for other purposes mentioned in Section 10(22A) of the Act. In that view of the matter, when the learned Tribunal has already given full exemption as is admissible under Section 10(22A) of the Act, we do not find any error therein, and the mere fact, that the Tribunal has observed the Trust and hospital to be two independent entities, is hardly of any consequence, as the exemption provided under Section 10(22A) of the Act is not related with any institution, but is related to the income of the hospital or other institution for the specified purposes.

The net result of the aforesaid discussion is that we

do not find any force in these appeals. The same are, therefore, dismissed.

(DEO NARAYAN THANVI), J.

(N P GUPTA), J.

Rankawat JK, PS