

आयकर अपीलीय अधिकरण, एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

S M C BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1633/Mds/2014

&

आयकर अपील सं./ITA No.427/Mds/2015

निर्धारण वर्ष / Assessment Years : 2009-10 & 2010-11

The Deputy Director of
Income Tax (Exemptions)-IV,
Income Tax Officer, Ward – 1
(Exemptions),
Chennai - 600 034.

v. M/s Karthik Art Festival Trust,
“Bhargavi” Flat No.F-1, First floor,
No.16 (Old No.39),
Bheemanna Mudali Garden Street,
Alwarpet, Chennai - 600 018.

(अपीलार्थी/Appellants)

PAN : AAATK 3060 A

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. A.S. Sriraman, Advocate

सुनवाई की तारीख/Date of Hearing : 23.10.2015

घोषणा की तारीख/Date of Pronouncement : 20.11.2015

आदेश /O R D E R

These appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals)-VII, Chennai, and pertain to assessment years 2009-10 and 2010-11. Since common issue arises for consideration in both the appeals, I

heard both the appeals together and disposing of the same by this common order.

2. Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that the assessee-Trust was registered under Section 12AA of the Income-tax Act, 1961 (in short 'the Act'). During the years under consideration, the assessee received sponsorship, gate sales and interest to the extent of ₹37,50,082/- and ₹35,35,643/- respectively. Since the assessee has received income from the activities which are in the nature of trade, commerce, etc., the Assessing Officer by placing reliance on the provisions of Section 2(15) of the Act, found that the assessee is not eligible for exemption under Section 11 of the Act. Accordingly, the assessee-Trust was treated as AOP and tax was levied in respect of the profit earned by the assessee. However, on appeal before the CIT(Appeals), the CIT(Appeals) found that the object of the assessee-Trust is promotion of fine arts, dance, music and education. The sale of gate pass and interest are not received in respect of service rendered through any trade or commerce, this was received in the course of carrying on charitable activities in pursuance of the object of the Trust. Therefore, the CIT(Appeals)

found that advancement of music, dance and fine arts cannot be considered to be in the nature of trade, commerce or business. According to the Ld. D.R., the assessee received income on sale of gate pass and interest income, therefore, it is service rendered in respect of trade and commerce.

3. On the contrary, Sh. A.S. Sriraman, the Ld.counsel for the assessee, submitted that the assessee-Trust was established for education, promotion of music, dance, fine arts, etc. In the course of carrying on its charitable activities, the assessee has sold gate pass and also received sponsorship and interest income. Other than these, the assessee has not carried out any trade or commerce; the assessee has not rendered any service in trade or commerce, therefore, the CIT(Appeals) has rightly allowed the claim of the assessee.

4. I have considered the rival submissions on either side and perused the relevant material on record. Admittedly, the assessee-Trust was established with an object of promotion of dance, music, fine arts and education. In the course of carrying on its charitable activities, the assessee has received sponsorship fee, income on sale of gate pass and interest income. Other than these activities,

the assessee admittedly did not carry on any other activities. Therefore, this Tribunal is of the considered opinion that the assessee has not carried on any trade, commerce or business activity other than carrying on its charitable activities in furtherance of its object. No service was rendered in any trade or commerce by the assessee. In those circumstances, this Tribunal finds no reason to interfere with the order of the lower authority and accordingly, the same is confirmed.

5. In the result, both the appeals of the Revenue are dismissed.

Order pronounced on 20th November, 2015 at Chennai.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 20th November, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellants
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-VII, Chennai-34
4. DIT (Exemptions), Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.