

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1767 & 1768/Mds/2016

निर्धारण वर्ष / Assessment Years : 2010-11 & 2011-12

M/s Swami Satchidananda
Foundation,
C/o Shri S. Sridhar,
Sh. A.S. Sriraman, Advocates,
New No.14, Old No.82, Flat No.5,
1st Avenue, Indira Nagar, Adyar,
Chennai - 600 020.

v. The Income Tax Officer,
Company Ward -1,
Coimbatore.

PAN : AAATS 5138 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing : 11.01.2018

घोषणा की तारीख/Date of Pronouncement : 25.01.2018

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals)-2, Coimbatore, dated 28.03.2016 and pertain to assessment years 2010-11 and 2011-12. Since common issue arises for

consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. The only issue arises for consideration is depreciation on the cost of the asset which was allowed as application of income under Section 11 of the Income-tax Act, 1961 (in short 'the Act').

3. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the assessee is a charitable trust registered under Section 12AA of the Act. According to the Ld. counsel, the assessee claimed depreciation on the asset, the cost of which was allowed as application of income under Section 11 of the Act. Both the authorities below rejected the claim of the assessee by placing reliance on the order of this Tribunal. Now, the Apex Court in CIT v. Rajasthan And Gujarati Charitable Foundation Pooona in Civil Appeal No.7186 of 2014 found that the assessee is eligible for depreciation even though the cost of asset was allowed as application of income, therefore, according to the Ld. counsel, both the authorities below are not justified in disallowing the claim of the assessee.

4. We heard Shri AR.V. Sreenivasan, the Ld. Departmental Representative also. It is not in dispute that the Apex Court in Rajasthan And Gujarati Charitable Foundation Pooona (supra) found

that a charitable institution is eligible for depreciation on the asset, even though the cost of which was already allowed as application of income under Section 11 of the Act. The Apex Court further found that while computing income under Section 11 of the Act, it has to be computed commercially after allowing depreciation under Section 32 of the Act.

5. In view of the above judgment of Apex Court in Rajasthan And Gujarati Charitable Foundation Poona (supra), this Tribunal is unable to uphold the order of the lower authority. Accordingly, orders of both the authorities below are set aside and the Assessing Officer is directed to allow depreciation as per rule.

6. In the result, both the appeals filed by the assessee stand allowed.

Order pronounced on 25th January, 2018 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 25th January, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-2, Coimbatore
4. CIT, Exemption, Chennai.
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.