

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH : CHENNAI

श्री अब्राहम पी.जॉर्ज, लेखा सदस्य एवं
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष।
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.1974 & 1975/CHNY/2018
निर्धारण वर्ष /Assessment years : 2010-11 & 2011-12

Saranathan Academy of
Higher Education
Venkateswara Nagar,
Panjappur,
Tiruchirapalli-620 002.
(PAN: AAETS6115N)

Vs. Deputy Commissioner of
Income Tax, Circle-IV
Trichy.

AND

**ITA Nos.1976 to 1978/Chny/2018
Assessment Years : 2010-11 to 2012-13**

**Mahatma Gandhi Centenary
Vidyalaya,
No.35, Tennur High Road,
Tennur,
Tiruchirapalli-620 017.**

**Vs. Assistant Commissioner
of Income Tax,
Circle-1(2),
Trichy.**

(PAN:AAATM7545C)

अपीलार्थी/Appellant

(प्रत्यर्थी/Respondent)

पीलार्थी की ओर से/ Appellant by

: Shri N.Quadir Hoseyn,
Advocate &
Dr.L.Natarajan, C.A

प्रत्यर्थी की ओर से /Respondent by

: Mrs. D.Jayanthi Angayarkanni, JCIT

सुनवाई की तारीख/Date of Hearing

: 26.11.2018

घोषणा की तारीख /Date of Pronouncement

: 27.11.2018

आदेश / ORDER**PER BENCH:**

Grievance raised by all the assesseees in these appeals is on denial of depreciation on assets, cost of which was treated as application of income.

2. Learned counsel for the assessee submitted that assesseees were all charitable trusts which were registered under section 12AA of the Act. As per the Learned AR, claim of depreciation on the assets made by the assesseees were not allowed by the Assessing Officer. According to him, Assessing Officer considered such depreciation as not allowable since cost of such assets were claimed as application of income by the concerned assesseees while computing its taxable income. As per Learned AR, this view taken by the Learned Assessing Officer was confirmed by Learned Commissioner of Income Tax(Appeals). Contention of the Learned AR was that by virtue of the judgement of Hon'ble Supreme Court in CIT Vs. Rajasthan & Gujarati Charitable Foundation, Pune (2018) 402 ITR 441, the claim of depreciation could not be disallowed.

3. Learned DR fairly agreed that for the impugned assessment years, the issue stood covered by virtue of the judgement of the judgement of Hon'ble Supreme Court in CIT Vs. Rajasthan & Gujarati Charitable Foundation, Pune (supra).

4. We have heard the contentions. The question regarding allowance of depreciation on assets, the cost of which was claimed as application of income, is no more *res integra*. No doubt, by virtue of amendment made under sub-section (6) to Section 11 inserted by Finance Act, 2014 with effect from 01.04.2015, depreciation on cost of assets claimed as application of income is not allowable. However, the said amendment has come into effect from 01.04.2015, therefore, is applicable only from assessment year 2015-16. Impugned assessment years are all prior to assessment year 2015-16. Accordingly, by virtue of the judgement of Hon'ble Supreme Court in CIT Vs. Rajasthan & Gujarati Charitable Foundation, Pune (supra), claim of the assesseees are allowable. We, therefore, set aside the orders of the lower authorities and direct the Assessing Officer to allow the depreciation in all these appeals.

5. In the result, appeals filed by the assesseees stand allowed.

Order pronounced on Tuesday, the 27th of November, 2018, at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(अब्राहम पी.जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:- 27th November, 2018.

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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