

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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 No.601/Chny/2018

निर्धारण वर्ष /Assessment Year : N.A.

M/s Sri Kumaran Educational Trust,
No.1, MTH Road, Villivakkam,
Chennai - 600 049.

v. The Income Tax Officer
(Exemptions),
Ward – 3,
Chennai.

PAN : AAITS 0011 K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

प्रत्यर्थी की ओर से / Respondent by : Shri R.V. Aroon Prasad, JCIT

सुनवाई की तारीख/Date of Hearing : 26.12.2018

घोषणा की तारीख/Date of Pronouncement : 02.01.2019

आदेश /ORDER

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

This appeal of the assessee is directed against the order of the Director of Income Tax (Exemptions), Chennai, dated 27.11.2012 rejecting the application filed by the assessee for registration under Section 12AA of the Income-tax Act, 1961 (in short 'the Act') as charitable institution.

2. There was a delay of 25 days in filing this appeal by the assessee. The assessee has filed a petition for condonation of delay. We have heard the Ld.counsel for the assessee and the Ld. D.R. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the Director of Income Tax (Exemptions) rejected the application of the assessee for registration under Section 12AA of the Act on the ground that the Trust Deed was amended without the approval of the Commissioner of Income Tax. Referring to the Clause 17 of the Trust Deed, the Ld.counsel submitted that the Trust Deed can be amended with the approval of the Commissioner of Income Tax. Since the approval was not sought by the assessee, according to the Ld. counsel, the Director of Income Tax (Exemptions) rejected the application. Subsequently, in the year 2015, according to the Ld. counsel, the assessee had filed an application for registration once again and the Director of Income Tax (Exemptions) granted registration from the date of application. On a query from the Bench, the Ld.counsel clarified that the officer

who granted registration is different from the one who rejected the application by the impugned order.

4. Shri S. Sridhar, the Ld.counsel for the assessee further submitted that the amendment was not approved by the competent civil court. According to the Ld. counsel, since the object of the Trust Deed was not amended and only a cosmetic change was made with regard to the name of the trust, etc., the provisions of Section 92 of Code of Civil Procedure may not be applicable. Moreover, when the Director of Income Tax (Exemptions) granted approval in the year 2015, there was no reason for rejecting the application filed earlier. Referring to the impugned order of the Director of Income Tax (Exemptions), the Ld.counsel submitted that with regard to non-production of material evidence, the matter may be remitted back to Director of Income Tax (Exemptions) for reconsideration.

5. On the contrary, Shri R.V. Aroon Prasad, the Ld. Departmental Representative, submitted that the assessee has not filed documents required by the Director of Income Tax (Exemptions) for registration. Moreover, according to the Ld. D.R., the Trust Deed was amended without permission of Commissioner

of Income Tax as required under the Trust Deed. On a query from the Bench how the subsequent application of the assessee was entertained and Director of Income Tax (Exemptions) granted registration in the year 2015 when the order passed in the year 2012 attained finality? The Ld. D.R. could not clarify under what circumstance the Director of Income Tax (Exemptions) entertained the subsequent application of the assessee and granted registration.

6. We have considered the rival submissions on either side and perused the relevant material available on record. Vide the impugned order, the Director of Income Tax (Exemptions) rejected the application filed by the assessee for registration under Section 12AA of the Act. The assessee now claims before this Tribunal that in the year 2015 another application was filed for registration under Section 12AA of the Act and the Director of Income Tax (Exemptions) granted registration. It is not known under what circumstance the Director of Income Tax (Exemptions) granted such registration. The copy of the said application and the order was not filed before us. Therefore, we are unable to appreciate the reasons for granting such registration in the year 2015. Since the

registration was granted in the year 2015, this Tribunal is of the considered opinion that the present issue needs to be reconsidered by the Director of Income Tax (Exemptions). Accordingly, the order of the Director of Income Tax (Exemptions) is set aside and the issue of registration under Section 12AA of the Act is remitted back to his file. The Director of Income Tax (Exemptions) shall re-examine the matter in the light of the material that may be filed by the assessee and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 2nd January, 2019 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 2nd January, 2019.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. DIT(E), Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.