

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री
श्री एस. जयरामन, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

ITA Nos.1399, 1400 & 1401/Chny/2019
Assessment Years: 2013-14, 2014-15 & 2015-16

Deputy Commissioner of Income Tax
(Exemptions), Chennai Circle,
Aayakar Bhavan, Annexe Building,
III Floor, 121, M.G. Road,
Chennai – 600 034.

(अपीलार्थी/Appellant)

Revenue by
Assessee by

M/s. Council for Leather
Exports,
Vs. CMDA Tower-II, 3rd Floor
Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.
[PAN: AAACC 4697G]

(प्रत्यर्थी/Respondent)

: Mr. S. Bharath, CIT
: Mr. Vikram Vijayaraghavan,
Advocate

सुनवाई की तारीख/Date of Hearing : 28.05.2020
घोषणा की तारीख /Date of Pronouncement : 28.05.2020

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

These are appeals filed by the Revenue against the consolidated order of the learned Commissioner of Income Tax (Appeals)-9, Chennai in I.T.A TR No.28 & 131/CIT(A)-9/2016-17; 88/CIT(A)-9/2017-18 dated 25.02.2019 for the Assessment Years 2013-14, 2014-15 & 2015-16.

2. Mr. S. Bharath, CIT represented on behalf of the Revenue and Mr. Vikram Vijayaraghavan, Advocate represented on behalf of the Assessee.

3. In the Revenue's appeal, the Revenue has raised the following grounds:

1. The order of the learned CIT(A) is contrary to the law and facts of the case.
2. The learned CIT(A) erred in holding that the assessee is eligible for exemption u/s.10(23C)(iv) of the Act and the assessee is not hit by the amended provisions of Section 2(15) of the Act under the object of "General Public Utility".

2.1 The learned CIT(A) failed to appreciate that income derived out of membership subscription, renewal membership subscription, certification fee, are in the nature of trade or commerce and the receipts exceed the threshold limit of Rs.25 lakhs as prescribed under 2nd proviso to Section 2(15) of the Act.

2.2 The learned CIT(A) ought to have appreciated the fact that the Finance Act 2008 w.e.f.01.04.2009 has made a very fundamental and drastic change by excluding a group of Trusts from engaging into trade and business related activities. Therefore, these trusts which are pursuing the residuary category objects under 'charitable purpose' are debarred from having any trade or business related activity.

2.3 The learned CIT(A) failed to place reliance on the decision of the Hon'ble ITAT Panaji Bench in the case of Entertainment Society of Goa Vs. Commissioner of Income-Tax (2013) 34 Taxmann.com 210.

4. At the time of hearing, it was submitted by the learned Departmental Representative that the Assessing Officer in the course of assessment denied the exemption u/s.10(23C)(iv) of the

Income Tax Act, 1961 on the ground that the assessee was hit by the amended proviso to Section 2(15) of the Income Tax Act, 1961, and as what the assessee was doing was not of general public utility. It was submitted by the learned Departmental Representative that the learned Commissioner of Income Tax (Appeals) had allowed the assessee's claim by following the decision of the Hon'ble Jurisdictional High Court in the assessee's own case in Writ Petition No.7722 of 2018 for the Assessment Year 2015-16 and by following the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case in I.T.A. No.2172/Chny2017 dated 23.04.2018 for the Assessment Year 2012-2013, as also the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case in I.T.A. No.1192/Mds/2014 for the Assessment Year 2010-2011.

It was a submission by the learned CIT Departmental Representative that the assessee is not entitled to the benefit of exemption u/s.10(23C)(iv) of the Income Tax Act, 1961 and that the order of the learned Commissioner of Income Tax (Appeals) is liable to be reversed.

5. The learned Commissioner of Income Tax vehemently supported the order of the Assessing Officer.

6. In reply, the learned Authorized Representative submitted that the issue is squarely covered by the decision of the Co-ordinate Bench of this Tribunal as referred to above, as also the decision of the Hon'ble Jurisdictional High Court in Writ Petition referred to above.

7. We have considered the rival submission and perused the materials available on record.

8. A perusal of the order of the Co-ordinate Bench of this Tribunal referred to above, as also the decision of the Hon'ble Jurisdictional High Court in Writ Petition clearly shows that the assessee has been held to be eligible for the benefit of exemption u/s.10(23C)(iv) and that the assessee's facts are not hit by the proviso to Section 2 (15) of the Income Tax Act, 1961. Further, as it is noticed the learned Commissioner of Income Tax (Appeals) had followed judicial discipline in following the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case for the earlier

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assessment years, we find no reason to interfere in the order of the learned CIT(A) and the same stands confirmed.

9. In the result, the appeals of the Revenue in I.T.A.Nos.1399, 1400 & 1401/Chny/2019 are dismissed.

Order pronounced in the open Court on 28th May, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 28th May, 2020

IA, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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