

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

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. No.2588/Chny/2017
Assessment Year: 2016-2017**

Sri. Gurugnana Sambandar Mission,
No.1, Mayiladuthurai – 609 001
Tamil Nadu

The Income Tax Officer
(Exemptions),
Vs. Tiruchirappalli – 620 001.

[PAN: AACTG 1020A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

**I.T.A. Nos.50, 51, 52, 53 & 54/Chny/2020
Assessment Year: 2012-13, 2013-14, 2014-15, 2015-16 & 2016-17**

M/s. Gurugnana Sambandar Mission,
Dharmapuram Aadheenam,
No.33-A, Gandhiji Road,
Mayiladuthurai,
Nagapattinam – 609 001
Tamil Nadu

The Income Tax Officer
Exemptions Ward,
Vs. Income Tax Department,
Room No.210, 2nd Floor,
No.44, Williams Road,
Cantonment,
Tiruchirappalli – 620 001

[PAN: AACTG 1020A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Mr. M. Srinivasa Rao, CIT-DR

सुनवाई की तारीख/Date of Hearing

: 15.10.2020

घोषणा की तारीख /Date of Pronouncement

: 23.10.2020

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

I.T.A. No.2588/Chny/2017 is an appeal filed by the Assessee directed against the order of the learned Commissioner of Income Tax (Exemptions), Chennai in C.No.CIT(E) 2(3293)/2017-18 dated 29.09.2017 relevant to the assessment year 2016-2017.

I.T.A. Nos.50, 51, 52, 53 & 54/Chny/2020 are appeals filed by the Assessee directed against the order of the learned Commissioner of Income Tax (Appeals)-1, Trichy in I.T.A. Nos.244, 246, 247, 248, 249/2018-19/CIT(A)-1/TRY dated 02.12.2019.

2. The brief facts of the case are that the Assessee Trust is running educational institutions and had filed an application in Form No.10A on 27.03.2017 seeking registration u/s.12AA of the Income Tax Act, 1961. The learned Commissioner of Income Tax (Exemptions) after considering the application filed by the Assessee and also the objectives of the Assessee has noted that the Assessee's objectives are charitable in nature and the activities that are being carried out are also charitable in nature. The Assessee Trust that has existed for long is more than three decades old. However, he has noted that to avail an exemption u/s.12AA of the Income Tax Act, 1961, the Assessee has to maintain

books of accounts and he has to file the return of income regularly. However, till date the Assessee has not filed any return of income for any of the Assessment Years. Particularly, the Assessee's turn-over (annual receipts) are running into crores. Accordingly, the learned Commissioner of Income Tax (Exemptions) denied the registration u/s.12AA of the Income Tax Act, 1961. He further noted that the Assessee collected donations from the parents of the students who are admitted in his schools and donations to a tune of Rs.40.00 lakhs which is contrary to the Tamil Nadu Educational Institutions (Prohibition of collection of capitation fee) Act, 1992 and concluded that the activities of the Assessee are not charitable in nature and rejected the application filed by the Assessee.

3. On being aggrieved, the Assessee had filed these appeals before the Income Tax Appellate Tribunal.

4. The learned Counsel for the Assessee submitted that the Assessee is a Trust, running educational institutions which are charitable in nature. Therefore, the Assessee is entitled for registration u/s.12AA of the Income Tax Act, 1961. It is further submitted that the learned Commissioner of Income Tax (Exemptions) is not correct in saying that the Assessee has not filed the return of income. In fact, the Assessee

had filed the return of income for the Assessment Years 2014-15, 2015-16 and 2016-17 and submitted that it is sufficient for the Assessee to file the return of income for the period of three years along with the application for registration u/s.12AA of the Income Tax Act, 1961 and submitted that the issue may be remitted back to the learned Commissioner of Income Tax (Exemptions) to adjudicate afresh in accordance with law.

5. On the other hand, the learned Departmental Representative fairly submitted that the issue may be remitted back to the learned Commissioner of Income Tax (Exemptions).

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

7. The learned Commissioner of Income Tax (Exemptions) in his order has clearly mentioned that the Assessee is a Trust and that the Assessee's objectives are charitable in nature. In fact, the Assessee's activities which are being carried out are also charitable in nature. However, the learned Commissioner of Income Tax (Exemptions) rejected the registration u/s.12AA of the Income Tax Act, 1961 on the ground that the Assessee has not filed the return of income regularly and had not maintained any proper books of accounts and also observed that the Assessee has received

donations to a tune of Rs.40.00 lakhs from the parents of the students admitted at the Assessee's school. In so far as the filing of return of income is concerned, the learned Commissioner of Income Tax (Exemptions) himself noted that the Assessee already filed the return of income for the Assessment Years 2014-15, 2015-16 and 2016-17. So far as the books of accounts are concerned, the Assessee has submitted that he has already placed the books of accounts and that he is ready to face before the learned Commissioner of Income Tax (Exemptions). So far as another objection raised by the learned Commissioner of Income Tax (Exemptions) are in respect of the donations. The learned Commissioner of Income Tax (Exemptions) has observed that the Assessee has received donations to the tune of Rs.40./00 lakhs from the parents of the students but he has not given any show-cause notice to the Assessee to explain the nature of the receipts and the purpose for which it was received by the Assessee and also whether it is donations or fees. Therefore, the above observations made by the learned Commissioner of Income Tax (Exemptions) were simply from the details filed by the Assessee.

8. In our opinion, without giving an opportunity to explain what is the nature of the amount received by the Assessee and rejecting the application for registration u./s,12AA is not correct. In our opinion, one more opportunity is to be given to the Assessee to substantiate his case before the learned Commissioner of Income Tax (Exemptions).

9. Thus, we set aside the order passed by the learned Commissioner of Income Tax (Exemptions) and remit the issue back to the file of the learned Commissioner of Income Tax (Exemptions) to decide the issue afresh in accordance with law after examining all the details. We also direct the Assessee to file all the relevant materials before the learned Commissioner of Income Tax (Exemptions) when the date is given for hearing.

In view of the above, the order of the learned Commissioner of Income Tax (Exemptions) is set aside and the appeal filed by the Assessee is allowed for statistical purpose.

10. So far as the appeals in I.T.A. Nos.50, 51, 52, 53 & 54/Chny/2020 are concerned, the Assessing Officer has denied the claim made by the Assessee for the benefits of Section 11 & 12 of the Income Tax Act, 1961 on the ground that the Trust is not registered u/s.12AA of the Income Tax Act, 1961.

As we have already remitted back the issue to the file of the learned Commissioner of Income Tax (Exemptions) in I.T.A. No.2588/Chny/2017, all the connected appeals in I.T.A. Nos.50, 51, 52, 53 & 54/Chny/2020 should be decided after deciding the eligibility of the Assessee u/s.12AA of the Income Tax Act, 1961. Therefore, we set aside the order passed by the learned Commissioner of Income Tax (Appeals)-1, Trichy and remit the matter back to the Assessing Officer to decide the issue afresh after the

learned Commissioner of Income Tax (Exemptions) decide the appeal of the Assessee in I.T.A. No.2588/Chny/2017 in respect of the registration u/s.12AA of the Income Tax Act, 1961.

Thus, all these appeals filed by the Assessee in I.T.A. No.2588/Chny/2017 and I.T.A. Nos.50, 51, 52, 53 & 54/Chny/2020 are allowed for statistical purpose.

11. In the result, all the appeals of the Assessee are allowed for statistical purpose.

Order pronounced on 23rd October, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 23rd October, 2020

IA, Sr. P.S

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