

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

श्री वी दुर्गा रत्न, न्यायिक सदस्य एवं श्री जी मंजूनथ, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.152/Chny/2020  
&  
**C.O No.19/Chny/2020**  
निर्धारण वर्ष /Assessment Year: 2016-17

**The Income Tax Officer,**  
Exemption Ward,  
Salem.

**M/s. T.N. Health Trust,**  
No.195, Tamil Sangam Road,  
**Vs.** Rajaram Nagar,  
Salem, Tamil Nadu-636007.  
**[PAN: AAATT 6714C]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent/  
Cross Objector )**

अपीलार्थी की ओर से/ Appellant by : Mr. ARV Sreenivasan, Addl. CIT  
प्रत्यर्थी की ओर से /Respondent/ : Mr. G. Baskar, Advocate &  
Cross Objector by : Mr. I. Dinesh, Advocate

सुनवाई की तारीख/Date of Hearing : 07.10.2021  
घोषणा की तारीख /Date of Pronouncement : 07.10.2021

**आदेश / ORDER**

**Per V. Durga Rao, Judicial Member:**

This appeal filed by the Revenue is directed against the order of the learned Commissioner of Income Tax (Appeals), Salem in I.T.A No.233/2018-19 dated 29.10.2019 relevant to the Assessment Year 2016-17. The assessee also filed Cross Objection in support of appellate order.

2. The brief facts of the case are that the assessee is a public charitable trust registered u/s. 12A(a) of the Income Tax Act, 1961 (hereinafter as "the Act"). During the course of assessment proceedings, the Assessing Officer (A.O) has noticed that the trust has purchased a car for a cost of Rs. 10,72,258/- and registered in the name of Shri S. Sanjay, Chairman of the trust. According to the A.O, the purchase of a car is for indirect benefit of the managing trustee of the trust who is referred the persons specified u/s. 13(2) of the Act. The A.O further held that as per the Income Tax Act, any infraction of law qualified u/s. 13(2)(g) of the Act would result in denial of exemption u/s. 11 of the Act and entail subjecting to tax any income of the trust as per the provisions of s. 13(1)(c)(ii) of the Act. Accordingly, the A.O has assessed the income of the assessee at the Maximum Marginal Rate (MMR) @ 30%. The A.O also denied the capital expenditure and allowed only revenue expenditure and other expenses towards the running of the institutions.

3. It was submitted before the Ld. CIT(A) that the denial of the exemption should only to the extent of income which was in violation of s. 13(1)(d) of the Act and not the total denial of exemption u/s. 11 of the Act and he also relied on the judgment of Hon'ble Jurisdictional High Court in the case of *CIT v. Working Women's Forum [2014] 365 ITR*

0353 (*Mad*). By following the decision of Hon'ble Jurisdictional High Court, he has directed the A.O not to deny the benefit of s. 11 & 12 of the Act but only disallow and bring to tax the amount which is held by the A.O to be in violation of the provisions of s. 13(1)(c)(ii)/13(2)(g) of the Act.

4. On being aggrieved, the Department carried the matter before the Tribunal.

5. The Id. D.R has strongly supported the order passed by the A.O.

6. On the other hand, the Id. Counsel for the assessee has strongly supported the order passed by the Ld. CIT(A) and also relied on the judgment of the Hon'ble Jurisdictional High Court in the case of *CIT v. Working Women's Forum (supra)*, and submitted that against the order passed by the Hon'ble Jurisdictional High Court, the Department carried SLP before the Hon'ble Supreme Court and the same is dismissed by the Hon'ble Supreme Court and submitted that the order passed by the Ld. CIT(A) may be upheld.

7. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below. The only issue involved in this appeal is whether the denial of exemption

only to the extent of income which was violative of s. 13(1)(d) of the Act or total denial of exemption u/s. 11 of the Act. This issue has been considered by the Hon'ble Jurisdictional High Court in the case of *CIT vs. Working Women's Forum (supra)*, where the Hon'ble High Court has already held that "denial of exemption should only to the extent of the income which was violative of s. 13(1)(d) of the Act and not the total denial of exemption u/s. 11 of the Act". Against the judgment of Hon'ble Jurisdictional High Court, an SLP was also carried before the Hon'ble Supreme Court and the same was dismissed by the Hon'ble Apex Court. The Ld. CIT(A) by following the decision of the Hon'ble Jurisdiction High Court in the case of *CIT vs. Working Women's Forum (supra)*, directed the A.O not to deny the benefit of s. 11 & 12 of the Act but only to disallow and bring to tax the amount which is held by A.O in violation of the provisions of s. 13(1)(c)(ii)/13(2)(g) of the Act. For the sake of convenience, the relevant portion of the order is extracted as under:

*"9. I have perused the submissions of the appellant and the case laws relied upon by him, The appellant has put forth detailed arguments before me for purchase of a high end car in representative capacity for the trust instead of trust's name. The appellant claimed that alternately Rs. 10,72,2587- alone directed to be assessed at maximum marginal rate and denial of exemption should only be to the extent of the income which was violative of section 13(2)(g) and not the total denial of exemption under section 11. In support of its claim the appellant trust cited many case laws. I have perused the case laws relied upon by the appellant. I find merits in the arguments of the appellant. I rely on the judgment of the Hon'ble jurisdictional High Court in the case of CJT Vs Working **Women's Forum** [2014] 365 ITR 0353. The Hon'ble High Court has held that the denial of exemption should only be to the extent of the income which was violative of section 13(l)(d) and not the total denial of exemption under*

section 11. The Hon'ble Apex court also dismissed the SLP filed by the department against the High Court's ruling. Respectfully following the above decisions, I direct the A.O. to restrict the additions to the income, if any, which were held by AO to be violative of section 13(2)(g) of the Act. Respectfully following the judicial pronouncements cited supra, I direct the A.O. not to deny the benefits of section 11 & 12 of the Act but only disallow and bring to tax the amount which is held by AO to be in violation of the provisions of section 13(l)(c)(ii)/13(2)(g) of the I.T. Act, Hence, the grounds of appeal related to denial of exemption u/s. 11 & 12 of the Act are allowed with the above conditions”.

8. We, therefore respectfully following the above judgment of the Hon'ble Jurisdictional High Court, we find no infirmity in the order passed by the Ld. CIT(A). Thus, the appeal filed by the Revenue is dismissed.

9. So far as the Cross Objection filed by the assessee is concerned, the CO was filed in support of the appellate order passed by the Ld. CIT(A). Since, we have dismissed the appeal filed by the Revenue, the C.O filed by the assessee become infructuous and liable to be dismissed. Accordingly, the C.O filed by the assessee is dismissed.

10. In the result, the appeal filed by the Revenue is dismissed and the C.O filed by the assessee is also dismissed.

*Order pronounced on 07<sup>th</sup> October, 2021 in Chennai.*

Sd/-  
(श्री जी मंजूनाथ)  
(G. MANJUNATHA)  
लेखासदस्य/ACCOUNTANT MEMBER

Sd/-  
(वी दुर्गाराम)  
(V. DURGA RAO)  
न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 07<sup>th</sup> October, 2021.  
EDN/-

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