

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 3360/CHNY/2019

निर्धारण वर्ष / Assessment Year: 2012-13

**M/s. Sri Ponniah
Ramajayathammal Educational
& Charitable Trust,**
33 & 34, Natarajapuram South
Colony Medical College Road,
Thanjavur – 613 007.

Vs **The ACIT (Exemptions),**
2nd Floor, May Flower
Midcity Building,
1510, Trichy Road,
Coimbatore – 641 018

PAN: AACTS 0879H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri K. Meenakshisundaram,
Income Tax Practitioner

प्रत्यर्थी की ओर से/Respondent by

: Shri K.N. Dhandapani, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 09.12.2021

घोषणा की तारीख/Date of Pronouncement

: 24.01.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-16, Chennai in ITA No.104/CIT(A)-16/2015-16, vide order dated 17.10.2019. The assessment was framed by the ACIT(Exemptions), Coimbatore for the assessment year 2012-13 vide order dated 31.03.2015 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act').

2. At the outset the Id.AR for the assessee took us through the order of CIT(A) and stated that the CIT(A) finding is only one liner in regard to addition on sale of assets, which reads as under:-

“Consideration received on sale of the asset is real income and should form part of the total income of the trust for the purpose of section 11. Hence the addition of Rs.1,23,25,081/- is upheld.”

As regards to accumulation u/s.11(2) of the Act, the finding of CIT(A) is as under:-

“7.3.2 In the present appeal, there is no dispute about the fact that the assessee trust did not specify the purpose of accumulation in the Form No.10.

Hence respectfully following the above stated decision of the Hon’ble High Court of Calcutta, the disallowance of benefit u/s.11(2) is upheld.”

He took us to the order of AO and stated that there is no discussion about deletion of assets amounting to Rs.1,23,25,081/- and purpose for the accumulation for an amount of Rs.15,87,915/-, which is added and brought to tax. The Id.AR stated that once there is no adjudication by the CIT(A), the matter has to go back to CIT(A) for giving actual finding and for allowing reasonable opportunity of being heard to the assessee.

3. Per contra, when these facts were confronted to Id. Senior DR, he fairly agreed that matter can be restored back to the file of the AO.

4. After hearing both the sides and going through facts, we noticed neither the CIT(A) nor AO has recorded any finding as regards to deletion of assets of Rs.1,23,25,081/- and accumulation of Rs.15,87,915/-. Once there is no finding or reason given for making additions, we are of the view that matter may be restored back to the original file i.e., the AO. Hence, we set aside the orders of the lower authorities and remand the matter back to the file of the AO for fresh adjudication.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the court on 24th January, 2022 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24th January, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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