

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No. 3430/Chny/2018
(निर्धारण वर्ष / Assessment Year: 2012-13)

Chidambaram Pillai Charitable and Educational Trust C/o Chidambaram Pillai College for Women Mela Kaval Kara Street Mannachannalur, Trichy Dt. 641 005.	बनाम/ Vs.	ITO Exemptions Ward 44 Williams Road Trichy 620 001.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAATC-1945-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri. S. Sridhar (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri. P. Sajit Kumar (JCIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05-04-2022
घोषणा की तारीख / Date of Pronouncement	:	05-04-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of the order of learned Commissioner of Income Tax (Appeals)-1, Trichy [CIT(A)] dated 11.10.2018 in the matter of assessment framed by the Ld. Assessing Officer [AO] u/s. 143(3) of the Act dated 23.03.2015.

2. Drawing attention to the appellate order, the Ld. AR submitted that the impugned order is a very cryptic order and it does not throw any light as to how the assessee was hit by the provisions of section 13(1)(c) of the Act. The Ld. AR pleaded to restore the matter back to the file of the Ld. CIT(A) to pass speaking order on merits. The Ld. Sr. DR, on the other hand, pleaded for confirmation of impugned order.

3. Upon perusal, we find that the assessee trust was assessed u/s 143(3) on 23.03.2015. It transpired that the building was constructed on the property leased out by the trustee. Accordingly, Ld. AO held that the assessee was hit by the provisions of Sec. 13(1)(c)(ii) since the funds were diverted for the benefits of the trustees. The assessee submitted that the land was leased for a period of 51 years after which the land was to be handed back. The construction of the building did not result into any benefit to the trustees. The trustees could neither make use of the building nor demand any compensation for the building as rent. Therefore, no benefit was extended to the trustees. However, rejecting the same, the construction cost of Rs.49.42 Lacs as incurred by the trust was held to be taxable at maximum marginal rates. Though the assessee preferred further appeal, however, the same was dismissed by Ld. CIT(A) on the ground that construction was directly hit by the provisions of Sec.13(1)(c) of the Act. Aggrieved, the assessee is in further appeal before us.

4. Upon careful consideration of impugned order, we find that no finding has been rendered in the impugned order as to what benefit has been extended by the trust to the trustees. The Ld. CIT(A) has overlooked the grounds raised by the assessee and did not render any independent findings. Therefore, considering the arguments made by Ld.

AR, we set aside the impugned order on this issue and restore the matter back to the file of Ld. CIT(A) for de-novo adjudication by way of speaking order on merits. Needless to add that adequate opportunity of hearing shall be granted to the assessee.

5. The appeal stands allowed for statistical purposes.

Order pronounced on 05th April, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 05-04-2022
JPV

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded 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