

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

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

आयकर अपील सं./ITA No.536/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. MAC Charities MAC/ICH Building, VHS Campus, Adyar, TTTI Post, Chennai – 600 113.	बनाम/ Vs.	DCIT (Exemptions) Chennai.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AAATM-0483-F		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri R. Vijayaraghavan (Advocate)-Ld. A.R
प्रत्यर्थी की ओर से/ Respondent by	:	Shri ARV Sreenivasan (Addl. CIT) – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	12-04-2022
घोषणा की तारीख / Date of Pronouncement	:	13-05-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member):

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals)-17, Chennai dated 31.12.2018 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 31.12.2016. The grounds raised by the assessee read as under:

1. The order of the Commissioner of Incometax (Appeals) is contrary to law, facts and circumstances of the case.
2. The CIT (Appeals) has erred in concluding that receipt from a community hall is commercial in nature.
3. The CIT(Appeals) ought to have appreciated that the primary purpose was to conduct cultural programmes and use for various research discussion. This kind of cultural activities is envisaged in the objects of the trust for which this exclusively facility is created,
4. The CIT(Appeals) ought to have appreciated that since the Community hall could not be used all the time for conducting cultural programmes some revenue was sought to be generated, with which the expenses of maintaining the hall was met any surplus arising, would be ploughed back in the achievement of the objects by letting out to poor and middle class.
5. For the purpose of Section 11 "property held under Trust" includes a business undertaking so held, viewed from this angle, also a small receipt from letting out the Community Hall to some willing public to do some family functions like Upanayanam, Nitchyathartham, private music programmes will not vitiate the main purposes and spirit of the object.
6. In the Circumstances, the CIT (Appeals) ought to have-held that income will not be a commercial income in its truest sense and hence the same cannot taxable as per proviso to Section 2(15).
7. The Appellant craves leave to file additional grounds at the time of hearing.

As evident, the assessee is aggrieved by disallowances arising out of invocation of proviso to Sec.2(15).

2. The Ld. AR advanced arguments to submit that the rental receipts were very less in comparison to total receipts and lower authorities erred in invoking second proviso to Sec.2(15). The Ld. AR also submitted that the activities being carried out by the assessee were for charitable purposes only. It was also pointed out that similar disallowance made by Ld. AO was allowed by Ld. CIT(A) in earlier year and the revenue did not contest the same any further. The Ld. Sr. DR, on the other hand, submitted that the activities were commercial in nature and the same were hit by proviso to Sec.2 (15). Having heard rival submissions and after due consideration of orders of lower authorities, our adjudication would be as under.

3. The assessee being registered trust u/s 12A enjoys exemption u/s 11 & 12 as applicable to a charitable trust. The assessee is registered

since November, 2000. During this year, the assessee's total receipts were Rs.1827.92 Lacs. During assessment proceedings, it was noted by Ld. AO that the main objective of the trust was to run education institution, render financial assistance to students, help poor and destitute persons, rendering useful services in the field of community health etc. The assessee was running a Kalyanam Mandapam by the name M/s Abirami Chidambaram community hall at Kottupuram. The assessee submitted that community hall was conceived and constructed to help the poor and middle-class people by enabling them to hire out a community hall for conducting family functions at moderate rental and also encourage fine arts by using the hall for music concerts and dance performances. The proviso to Sec.2(15) would not apply since the assessee was providing a platform for the poor and middle class people to conduct family functions at a cost reasonably within their reach. However, Ld. AO noted that the assessee earned rental receipts of Rs.72.93 Lacs and was hit by the proviso to Sec.2(15). Accordingly, the income from this activity could not be attributed to act of charity. Certain other additions / adjustments were made in the assessment order. However, the same are not the subject matter of dispute before us. The stand of Ld. AO, upon confirmation by Ld. CIT(A), is in further challenge before us.

4. Upon due consideration of material facts, it could be gathered that the assessee is a registered charitable trust since the year 2000. It is enjoying exemption as applicable to a charitable trust. With a view to help poor and middle-class people, which is one of its main objects, the assessee runs Kalyanam Mandapam by the name M/s Abirami Chidambaram community hall at Kottupuram. This community hall is

stated to have been conceived and constructed to help the poor people by enabling them to hire out a community hall for conducting family functions at moderate rental and also encourage fine arts by using the hall for music concerts and dance performances. It could also be seen that as against total receipts of Rs.1827.92 Lacs, the rental receipts are merely Rs.72.93 Lacs which is merely 4% of total receipts. The majority of rent received by the assessee include rental from marriage functions and rent earned from other events like cultural, spiritual and educational seminars etc. It is nowhere the findings that the assessee has not adhered to the conditions as applicable to a charitable trust or any of the objects of the assessee are profit-motive. Under these circumstances, it could not be concluded that the assessee carried out separate commercial activities and it was hit by the proviso to Sec. 2(15). The decision of this Tribunal in the case of **Mylapore Fine Arts Club V/s DDIT (ITA No.1706/Mds/2010; dated 12.09.2011)** supports the case of the assessee wherein it was held that in the modern society, perseverance and advancement of traditional and classical forms of music and arts could not be achieved without the support of the public. Participation of the public is essential. Therefore, any contributions made to such organizations by members of public have to be treated as contribution for a public cause. The assessee trust is receiving contributions in the above spirit and accordingly, it was held by coordinate bench that the assessee was eligible for approval u/s 80-G. We find that similar analogy is applicable in the present case. Moreover, this activity is regularly being carried out by the assessee over several years to achieve the objects of the trust. Therefore, the impugned activities could not be considered to have been hit by proviso to

Sec.2(15). We order so. The Ld. AO is directed to re-compute assessee's income in terms of our above order.

5. The appeal stands allowed in terms of our above order.

Order pronounced on 13th May, 2022.

Sd/-
(MAHAVIR SINGH)
उपअध्यक्ष /VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखकसदस्य /ACCOUNTANT MEMBER

चेन्नई/ Chennai; दिनांक/ Dated : 13-05-2022
EDN

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF