

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

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.912/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

M/s. Indian Concrete Institute,
No.79/35, Ocean Crest,
3rd Main Road, Gandhi Nagar,
Adyar, Chennai – 600 020.
[PAN: AAATI-0256-J]

The Income Tax Officer
Vs. (Exemptions),
Ward-4, Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Shri K. Ravi, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 10.01.2024
घोषणा की तारीख /Date of Pronouncement : 10.01.2024

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals) – 17, Chennai [CIT(A) dated 21-03-2019 and pertains to the Assessment Year [AY] 2016-17.

2. The brief facts of the case are that the assessee is a society registered u/s 12AA of the Income Tax Act, 1961 by the Commissioner of Income Tax (Exemptions), Chennai since 07-10-1982. The

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assessee filed the return of income for the A.Y 2016-17 on 21-09-2016 admitting "Nil" income. The case was selected for scrutiny and notice u/s 143(2) of the Act was issued to the assessee on 27-07-2017. Subsequently, notice u/s 142(1) of the Act was issued on 10-05-2018 calling for specific details. The assessee, in response filed the requisite details electronically.

3. The Id. Assessing Officer [AO] considered the case of the assessee and completed the assessment u/s 143(3) of the Act on 20-12-2018 determining the total income of the assessee at Rs.1,95,14,196/- and tax payable at Rs. 85,68,306/-.

4. Being aggrieved, the assessee filed appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 21-03-2019 dismissed the appeal of the assessee and confirmed the addition made by the Id. AO.

5. Being aggrieved, the assessee filed the present appeal before the Tribunal.

6. Heard the representatives of both the parties and perused the materials on record. The Ld. AR submitted that the matter should be re-examined by the Id. AO in the light of the recent decision of the Hon'ble Apex Court in the case of Asst. Commissioner of Income Tax

(Exemption) vs. Ahmedabad Urban Development Authority. The Ld. DR also submitted that the matter should be re-examined by the Id. AO in view of the decision of the Hon'ble Supreme Court.

7. The issues involved in the case are that the Id. AO invoked the residual clause of the amended provisions of section 2(15) of the Income Tax Act, 1961 i.e. General Public Utility, and Accretion to capital by varied categories of fee.

8. The Id. AO vide order dated 20-12-2018 verified the objectives of the assessee and concluded that the activities of the assessee are in the nature of trade, commerce or business and are hit by proviso to Section 2(15) of the Act. Hence, by applying section 13 (d) of the Act the Id. AO did not allow the claim for exemption u/s 11 of the Act.

9. The Ld. CIT(A) vide order dated 21-03-2019, inter alia, observed that the assessee did not bring any material on record to establish that the assessee has been doing educational activity in regular manner and finally confirmed the order of the Id. AO. We carefully considered the submissions of both the parties and observed that, the Hon'ble Supreme Court in the case of Assistant Commissioner of Income Tax (Exemptions) vs. Ahmedabad Urban Development Authority decided the issue of general public utility by a Charitable trust on 19th October,

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2022 under CA No. 21762 of 2017. As the Hon'ble Apex Court recently decided the issue of "General Public Utility" vide the aforesaid decision, we accepted the submissions of both the parties that the issue involved in the instant case should be considered afresh by the Id. AO under the light of the aforesaid decision of the Hon'ble Supreme Court. Accordingly, we set aside the order of the Id. CIT(A) dated 21-03-2019 as well as the order of the Id. AO dated 20-12-2018 and remand the matter to the Id. AO for consideration afresh by taking into consideration of the said decision of the Hon'ble Apex Court passed in the case between ACIT(Exemption) vs. Ahmedabad Urban Development Authority.

10. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open Court on 10th January, 2024.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 10th January, 2024.

EDN/-

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF