

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1755/Chny/2019

M/s. Arya Vysya Samajam,  
No. 34, Moorthy Street,  
Kumbakonam, Thanjavur 612 001.  
**[PAN:AAF AA4278E]**

The Income Tax Officer (Exemptions),  
Vs. Exemptions Ward,  
Trichy.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Abani Kantha Nayak, CIT  
सुनवाई की तारीख/ Date of hearing : 07.10.2021  
घोषणा की तारीख /Date of Pronouncement : 25.10.2021

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Exemptions), Chennai, dated 30.04.2019 in rejecting Form 10A for registration under section 12AA of the Income Tax Act, 1961 ["Act" in short].

2. Brief facts of the case are that the assessee trust filed an application in Form 10A for registration of the trust under section 12AA of the Act. In order to process the application of the assessee, certain details required were called for. After considering the details of the assessee and considering the provisions of the Act as well as judicial precedent, the Id.

CIT(E) rejected the application for registration of the assessee trust under section 12AA of the Act.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee argued that there was no legal requirement for the assessee for registering the documents establishing its creation on 14.01.1947 for the eligibility to get the tag of special status for full tax exemption within the scope of section 12AA read with section 11 of the Act. It was further submission that the Id. CIT(E) has failed to appreciate that having not disputed the objects of the assessee entity falling within the scope and ambit of section 2(15) of the Act and the genuineness of the activities carried on in accordance with the objects, the imposition of artificial condition for registering the document creating the entity was wrong, erroneous, unjustified and unsustainable in law. It was further submission that application of section 5 of the Indian Trust Act, 1882 to the factual matrix of the case was out of context and prayed for directing the Id. CIT(E) to grant registration under section 12AA of the Act.

4. On the other hand, the Id. DR has submitted that the Explanation 1 below sub-section 9 of section 13 of the Act explains that the trust includes any other "legal Obligation". The legal obligation includes a company registered under section 25 of the Companies Act 1956 (now under section

8 of the Companies Act 2013) or an institution registered under Societies registration Act or any "body" created under any statute. In this case the assessee is a society which should have been registered under Societies Registration Act, especially when immovable properties are held by the society. Therefore, the Id. CIT(E) has rightly rejected the application of the assessee and pleaded for confirmation of the appellate order.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee "Arya Vysiya Samajam" stated to have constituted by rules and regulations framed on 14.01.1947. When the assessee was requested to explain as to why the said rules and regulations are not registered with the registrar, by filing legal opinion dated 16.10.1990, the AR of the assessee explained before the Id. CIT(E) that the registration was not necessary. The Id. CIT(E) has observed that as per provisions of section 11(1)(a) of the Act, the income derived from property held under trust, wholly for charitable or religious purposes, shall not be included in the total income of the assessee to the extent to which such income is applied to such purposes in India. The provisions of Section 11 (1) (a) of the Act, exempts the income derived from the property held under trust. However, the Id. CIT(E) has also observed that the provisions of explanation 1, below sub section 9 of section 13 of the Act explain that trust includes any other "legal obligation". The legal obligation

includes a company registered under section 25 of the Companies Act 1956 (now under section 8 of the Companies Act 2013) or an institution registered under Societies registration Act or any "body" created under any statute. In this case the assessee is a society which should have been registered under Societies Registration Act, especially when immovable properties are held by the society. Perusal of the objects of the society as per the rules and regulations framed on 14.01.1947 shows that the assessee was owning of several immovable properties including Kalyana Mahals. The Id. CIT(E) further noted that section 5 of the India Trust Act 1882, says that, no trust in relation to immovable property is valid, unless declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered, or by the will of the author of the trust or of the trustee. By following the decision of the Hon'ble High Court of Andhra Pradesh in the case Pankumari Kochar vs. Controller of Estate Duty reported in 73 ITR 373 as well as the decision of the Hon'ble Bombay High Court in the case of the Trustees of Dr. Divekar Charity vs. CIT 110 ITR 227, the Id. CIT(E) rejected the application of the assessee for registration under section 12AA of the Act.

6. Conveyance of immovable properties to society, mandates registration. The provisions of the Indian Trust Act, though applicable to the private trusts, can also be extended to public charitable trusts and also to the

societies. However, in this case, the assessee has neither registered under Indian Registration Act nor under Societies Registration Act. We have also perused the case law referred by the Id. CIT(E) in the case of Pankumari Kochar vs. Controller of Estate Duty (supra), wherein, the Hon'ble High Court of Andhra Pradesh held that the registration is necessary where the trust is to be settled with immovable property and similar view was also taken by the Hon'ble Bombay High Court in the case of Dr. Divekar Charity vs. CIT (supra) holding that "in case of a charitable or religious trust, in relation to an immovable property, for claiming exemption under section 11 of the Income Tax Act, it is essential that the instrument of trust is duly registered". In view of the above facts and circumstances as well as judicial precedents, we find no reason to interfere with the order of the Id. CIT(E) and thus, the ground raised by the assessee stands dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 25<sup>th</sup> October, 2021 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 25.10.2021

Vm/-

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.