(2009) 02 RAJ CK 0076

In the Rajasthan High Court

Commissioner of Income Tax APPELLANT

Vs

Paramhans Ashram RESPONDENT

Date of Decision : 17-02-2009

Acts Referred:
Income Tax Act, 1961 — Section 11, 2, 256

Citation : (2009) 315 ITR 220

Hon'ble Judges : R.C. Gandhi, Acting C.J.;Mohammad Rafiq, J

Bench : Division Bench

Judgement

1. This reference has been made u/s 256(1) of the Income Tax Act, 1961, at the instance of the Revenue seeking the opinion of this Court on the following question of law:

Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the decision of the Appellate Assistant Commissioner that the assessee is a public charitable and religious trust and its income is entitled to exemption u/s 11 of the Income Tax Act, 1961?

2. The assessee in its returns pertaining to the assessment years 1973-74, 1974-75 and 1975-76 declared that the trust run by the assessee is a charitable trust and its income is exempt u/s 11 of the Income Tax Act, 1961. The Income Tax Officer did not accept the claim of the assessee. On appeal before the Appellate Assistant Commissioner of Income Tax, he reversed the order of the Income Tax Officer and permitted the benefit of Section 11 of the Income Tax Act. The appeal was preferred before the Tribunal. The Tribunal on examining the order of the Appellate Assistant Commissioner of Income Tax upheld his findings.

3. From the record, we find that as per the trust deed, the trust is involved in the activities of maintenance of the existing dharamshalas for help of members of the Agarwal community and other widows and children. The objects of the trust are charitable and religious and the activities of the trust are in conformity with the aims and objects of the trust. It has been registered with the Charity

Commissioner, Government of Rajasthan.

4. The similar reference was made by the Revenue for opinion of the court pertaining to the assessment years 1970-71, 1971-72, 1976-77 and 1977-78 between the same parties. The reference has been answered by this Court in the case titled Commissioner of Income Tax Vs. Paramhans Ashram Trust, Dealing with the same issue, the Division Bench of this Court held as under (page 713):

In order to appreciate the arguments of learned Counsel for the Revenue, it has to be seen as to whether the trust is a private trust or a public charitable trust. Normally, in a private trust, the beneficial interest is vested in one or more individuals whereas a public or charitable trust, on the other hand, has objects by which the public at large is benefited. The beneficiaries are capable of being ascertained in the private trust while the charitable purpose has been defined to include relief of the poor, education, medical relief and advancement of any other object of general public utility not involving the carrying on of any activity for profit. According to the main objects, the maintenance of the existing dharamshalas, help of Agarwals and other widows and children, feeding of mendicants and construction of new dharamshalas and schools, and help of the destitutes cannot be said to be restricted in respect of a particular individual or groups of them. The use of the words ''object of general public utility'' can be interpreted to cover such trust where the intention is to give the benefit to sizable numbers of the public in contrast to an individual or group of individuals. The expenses in constructing new dharamshalas were considered as advancement of the charitable object of the trust which was held entitled to exemption u/s 11 of the said Act in the case of Satya Vijay Patel Hindu Dharamshala Trust Vs. Commissioner of Income Tax, Gujarat I, and this Court in Ragunath Das Parihar Dharmshala Vs. Commissioner of Income Tax, has held that the sole purpose of the trust was to run a dharamshala which is an object of general public utility and so when this was the sole object, the income derived therefrom in the shape of the rent from the dharamshala is exempt u/s 11 read with Section 2(15) of the Act. Similarly, the other objects of help of Agarwals, widows and children, feeding of mendicants and help of destitutes are of general public utility and the Tribunal has rightly come to the conclusion that the assessee is a public charitable and religious trust and its income is entitled to exemption u/s 11 of the Income Tax Act, 1961.

5. We also subscribe to the view of the Division Bench CIT v. Paramhans Ashram Trust [1993] 203 ITR 711 (Raj) and answer the reference accordingly against the Revenue.