(1996) 03 SC CK 0144

In the Supreme Court Of India

Case No : CA No. 1257 to 1262 of 1984

Commissioner of Income Tax — APPELLANT

Vs

Thanthi Trust — RESPONDENT

Date of Decision : 14-03-1996

Acts Referred:
Income Tax Act, 1961 — Section 11

Citation : (1999) 156 CTR 605 : (1999) 239 ITR 502

Hon'ble Judges : S. Saghir Ahmad, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. The question arising herein is essentially a question of fact. After considering all the facts and circumstances of these cases, the High Court (see Commissioner of Income Tax Vs. Thanthi Trust, has recorded the following finding (page 773) :

Thus, on the material on record, we are not in a position to say that after making the credit entries, the assessee retained any control over the monies or any beneficial ownership therein. For the accounting year 1966-67 corresponding to the assessment year 1968-69, a sum of Rs. 10,41,689.47 had been credited by the assessee in favour of the educational institution out of which Rs. 3,04,035 had been drawn by the said institution, and for the accounting year 1967-68 corresponding to the assessment year 1969-70, a sum of Rs. 8,99,535 has been credited in favour of the educational institution and the educational institution has drawn Rs. 16,71,500 during that year. The conduct of the educational institution in drawing from the asses-see-trust larger sums than what has been credited by the trust in its favour in 1969-70 shows that it was fully aware of its credit with the assessee-trust and the funds that had been made available to it by the trust. If the amounts had been actually handed over to the Aditanar College during the assessment years in question, the assessee could claim the benefit of exemption u/s 11 as the college has been established only for the educational purposes and no part of its fund can be utilised for non-charitable purposes, and the Revenue cannot insist that unless the educational institution expends the amount donated by the assessee within the assessment year, the assessee cannot claim the benefit of exemption u/s 11.

2. The High Court also took into account the factual situation regarding the amounts credited to the account of the college from year to year and the withdrawals by the college. They are the following :

Accounting Assessment Date of assess- Amount credit- Amount with-years years ment order ed in favour of drawn by Adit- Adityanar yanar Educatio- Educational Institution nal Institution _ _ 1962-63 1964-65 19-2-1968 7,49,504.36 17,28,606 1963-64 1965-66 23-2-1968 7,08,725.02 2,26,809 1964-65 1966-67 10-7-1968 8,09,457.57 17,37,082 1965-66 1967-68 22-7-1968 7,99,312.00 3,02,998 1966-67 1968-69 20-3-1972 10,41,689.47 3,04,035 1967-68 1969-70 19-4-1972 8,99,535.00 16,61,500

3. It appears that the Adityanar College was run, not by the assessed-trust, but by another registered charitable society. In the circumstances, the High Court was right in the conclusion which it arrived at. It may also be mentioned that it is no part of the Revenue's case at any point of time that the credit entries made in the assessee's books of account were not genuine or true or that they were mere make-believe or bogus. It is also not brought to our notice that the income tax Officer doubted the said entries and called upon the assessee to produce the accounts of the college and that the assessee failed to produce the same.

4. The appeals are dismissed accordingly. No costs.

