
(1982) 04 MAD CK 0036
In the Madras High Court
Case No : Tax Case No. 815 of 1977

Commissioner of Income Tax

APPELLANT

Vs

Workshop Trust

RESPONDENT

Date of Decision : 01-04-1982

Acts Referred:

Income Tax Act, 1961 — Section 80G

Citation : (1983) 12 TAXMAN 239

Hon'ble Judges : Padmanabhan, J; Balasubrahmanyam, J

Bench : Division Bench

Advocate : S.J. Jayaraman and Nalni Chidambaram, for the Appellant; T.S. Ramu, for the Respondent

Judgement

1. Ved Prakash, son of Lala Daulatram, is an inmate of the Pondicherry Ashram. He is a disciple of Sri Aurobindo and the mother. In 1968, he started a carpentry workshop with borrowed money. From the very start, the workshop is run on a commercial scale. But it is held under a trust called the "Workshop Trust", Ved Prakash is the founder as well as the trustee of the trust. As founder of the trust, he has committed in writing what the terms of the trust are, in a deed dated 24-6-1968. The deed says that Ved Prakash has no manner of personal interest either in the corpus or in the income of the trust. He holds everything in trust for the Ashram. Every pie the workshop earns is for the Ashram. Ved Prakash keeps nothing for himself. He takes nothing for himself. In the year ended 31-3-1971, the workshop showed a profit of Rs. 10,600. Ved Prakash as trustee claimed that the income was exempt from income tax. He claimed that the trust was a charitable trust. The ITO held that it was nothing of the kind. He was, however, prepared to treat a part of the workshop income actually turned over to the Ashram as a donation exempt u/s 80G of the income tax Act, 1961 ("the Act"), but the exemption came to only Rs. 617. Ved Prakash was not satisfied. He took the matter in appeal. He insisted that every rupee of the income earned during the year was tax exempt. He referred to the terms of the trust deed and urged that the trust existed in this world only for the Aurobindo Ashram and for nothing

else. The Tribunal were quite impressed by this circumstance. They felt convinced that all the ideals of the Ashram must be attributed to Ved Prakash's trust as well, since the Ashram was the sole beneficiary of the property and income of the workshop. The Tribunal, however, were hesitant to proceed straightaway and grant relief. For the Ashram's objectives were not on record in the case. And the Tribunal considered that those aims and objects will have to be first ascertained. They accordingly sent the case back to the AAC.

2. The order of the Tribunal was, thus, one of remand. But the remand itself was based on the conviction that the objects of the Workshop Trust must be identified with the objects of the Aurobindo Trust. It is this determination of the Tribunal which the income tax Department challenges in the present reference. The question of law referred to us at their instance brings out the point at issue as under:

Whether, on the facts and in the circumstances of the case and in view of the provisions of the declaration of trust dated 24-6-1968, the objects of Sri Aurobindo Ashram Trust are to be taken as the objects of the assessee-trust?

3. We may point out that no question is before us as to the propriety of the Tribunal's remand. All the same we cannot help observing that the remand might well have been saved. We say so because the Ashram's objectives and their charitable nature were never in issue between the parties, so far as this case is concerned. They were, on the contrary, a non-issue. For, we cannot otherwise explain the grant by the ITO of relief u/s 80G as respects the amounts paid over by the trustee to the Ashram. We, therefore, deem it quite proper to ignore the remand and address ourselves to the question on the footing that our judgment in this reference will effectively conclude the case one way or the other.

4. Mr. Jayaraman, learned standing counsel for the revenue, urged that the Ashram is a different entity from the Workshop Trust. He accordingly urged that the objects of this trust must be spelled out only from the deed of trust subscribed to by its founder Ved Prakash. In this context, he said, the high mind and purpose of the Aurobindo Ashram are wholly brought the point.

5. We uphold these submissions without hesitation. The trust deed is a plain-speaking document. Ved Prakash explains in that deed what made him found the trust and what makes the workshop tick. We do not find him saying that the workshop is the very embodiment of the objects for which the Ashram had come into being. The deed does not say that the workshop, its properties, and its income are to be held for the self-same aims and objects which the Ashram avows for itself. As a matter of construction, therefore, we find nothing in the trust deed to support the Tribunal's view that the objects of the trust are identifiable with the Ashram's own objects, whatever they might be.

6. The Tribunal in their order have laid stress on the circumstance that the sole beneficiary of the trust is the Aurobindo Ashram. This is quite true. The trust deed says so. But that does not carry us any far. We know of no law of charitable

trusts which says that the objects avowed by the beneficiaries are at once the objects of the trust itself. But, then, this Workshop Trust does have an object of its own. What is it? As Mr. Jayaraman pointed out, we only have to read the trust deed to find what it is. For, Ved Prakash who subscribed to that document knew about the trust more than anybody else. And this is how he himself describes its objects in the instrument:

Whereas I am a disciple of Sri Aurobindo and the Mother and am desirous of benefiting the Sri Aurobindo Ashram, Pondicherry financially and whereas for the said purpose I have raised money for starting a workshop at Pondicherry....

It is clear that the trust is not cluttered up with a plurality of objectives. There is but one goal set for the trust, constantly to be reached, and that is, to benefit the Ashram financially. Benefiting the Ashram financially, we take it, is a nice way of saying that the trust is for ever interested in adding to the bank balance of the Aurobindo Ashram. This is the be-all and end-all of the trust. The question is: Does it make the trust a charitable trust?

7. The answer is too plain to need elaboration. Ever since the celebrated English case of *Pemsel* 3 TC 53 charitable purposes are usually analysed as falling under four distinct heads, namely, relief of the poor, education, medical relief, and any other object of general public utility. That is the way they are defined under the income tax Act too. Ved Prakash's trust does not fit in with any of these accepted heads of charity. The workshop is not intended for anybody's education, not even as a centre of vocational training in carpentry. Medical relief is far and away beyond the contemplation of the deed. So too is the idea of affording relief to those who are stricken by poverty. It is true that the workshop is to be run, not for Ved Prakash's profit, but entirely and exclusively for the Ashram. But that only shows how self-less the founder can be, self denial, however, has no positive purpose. Charity, on the other hand, involves affirmative action, and is by no means a negative virtue. To be charitable, one must aim at relieving the poor from poverty, relieving the disabled from suffering, and spreading education among the unenlightened. Supreme acts of self-sacrifice are good in their own way, but they are not charitable acts. It might look odd that the virtues of self-abnegation and self-effacement should be regarded as non-charitable. While hospitals and schools run on affluent lines should pass muster as charitable bodies. That, however, must be understood as the law, both under the statute and on the authorities.

8. Mr. Ramu, learned counsel for the trust, urged that the whole tenor of the trust deed points to the trust being an inextricable appendage to the Aurobindo Ashram. He even described it as a mini-Aurobindo Trust. We do not think this is an apt description. The trust, in our judgment, is by no means a branch or an outpost of the Aurobindo complex. The Ashram has no doubt a locus standi under the trust deed. But it is that of a beneficiary under the trust. And we hold that the Ashram's position as a beneficiary separates the trust and the Ashram as two distinct entities. The result is that we must answer the question in this

reference in the negative and in favour of the department. We only wish to add that, conformable to this judgment, the Tribunal will have to set aside their order of remand, and proceed to dispose of the case in the light of our answer to the question of law. No cost.