

(2001) 06 MAD CK 0086

In the Madras High Court

Case No : Tax Case No"s. 938 to 946 of 1993 Reference No"s. 301 to 309 of 1993

Commissioner of Wealth-Tax

APPELLANT

Vs

Coimbatore Athar Jamath

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Income Tax Act, 1961 — Section 11, 12A, 5(1)(i)
Wealth Tax Act, 1957 — Section 5(1)(i)

Citation : (2002) 125 TAXMAN 225

Hon'ble Judges : R. Jayasimha Babu, J;K. Gnanaprakasam, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant; P.P.S. Janarthana Raja, for the Respondent

Judgement

R. Jayasimha Babu, J.—The assessee"s claim for exemption u/s 5(1)(i) of the Wealth-tax Act, 1957 ("the Act") had been rejected for the assessment years 1972-73 to 1980-81. The assessee appealed to the Commissioner, who agreed with the assessee that its assets are exempt. The Tribunal having upheld the order of the Commissioner, the revenue is before us questioning the correctness of the Tribunal"s view. The relevant facts have been set out in the order of the Commissioner. The appellant is a registered society under the Societies Act and has also been registered as a charitable society u/s 12A of the income tax Act, 1961 by the Commissioner, Coimbatore, by an order dated 7-10-1985. It is seen from the rules of administration of the appellant-society that the dominant object of the society was to establish schools and charitable institutions in order to promote secular and religious education and also to help the needy persons of the Athar Community among the Muslims. All the properties of the Jamath had been vested in the general body of the Mahasabhai and its executive committee as held by the Madras High Court in A.S. No. 222 of 1949. It is also on record that the appellant-society had been running a boys school and a girls school and had also provided scholarship to students. The appellant-society also owns a

Mosque and a Darga in which religious activities are carried on.

2. The Commissioner found that the beneficiaries of the trust were members of the public, who are Mohammedan students and others belonging to the community. The objects of the trust as set out in the order of the Tribunal is as follows :

"To manage the Masjid and its Affairs; to establish schools and other charitable institutions for secular and religious education; to help the needy among the Mohammedans, such as Syeds, Seikhs, Ulamas, Musafars, Etheems; and the needy members of the association. To do all things generally which add to the glory of the Prophet and peace and prosperity among his subjects, particularly the members of the Jamath and to carry out such other further purposes that the association in its general body meeting by an absolute majority may from time to time provide."

3. It is clear that the object of the trust is mainly charitable. It has been found by the Commissioner and the Tribunal that the properties owned by the assessee are held by it in trust. Section 5(1)(i) is applicable to "any property held under trust or other legal obligation for any public purpose of a charitable or religious nature in India".

4. The assets held by the assessee in this case are not assets forming part of any business. There is no finding that any part of the assets of the trust is used for any purpose outside India. The activities of the trust are running schools and managing the Mosque and Darga in Coimbatore. This Court in the case of Commissioner of Wealth Tax Vs. Attur Thuluva Vellalar Sangam, has held that it is not essential that a trust claiming to be a charitable trust must be wholly and exclusively engaged in charitable activities and that it would be sufficient if the primary and predominant object is charitable. The activities of the trust here are charitable, running of schools being the primary object. The Tribunal was right in holding that the assessee was entitled to the benefit of section 5(1)(i). The questions :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the assessee is entitled to exemption u/s 5(1)(i) of the Wealth-tax Act, 1957 ?

2. Whether the Appellate Tribunal's interpretation of the words "In India" could only qualify by a noun and not the clause for the public purposes of a charitable or religious nature is sustainable in law ?

3. Whether, on the facts and in the circumstances of the case and having regard to the provisions of section 5(1)(i) of the Wealth-tax Act, 1957, the Appellate Tribunal's view that when the income is being computed u/s 11 of the income tax Act, 1961, it is always possible to exclude the application of income outside India from the exemption since that by itself would not disqualify the basic nature of the trust as a charitable and religious trust is justifiable in law ?"

referred to us are, therefore, answered in favour of the assessee and against the revenue.