(1997) 08 MAD CK 0019

In the Madras High Court

Case No : Tax Case No. 2015 of 1986 (Revision No. 565 of 1986) & Tax Case No. 2015 of 1986 (Revision No.565 of 1986) (Assessment Year: 1983-84)

Rev. Fr. Superior APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 18-08-1997

Acts Referred:

Citation : (2000) 242 ITR 148

Hon'ble Judges : R. Jayasimha Babu, J;B. Akbar Basha Khadiri, J

Bench : Division Bench

Advocate : Ashok Pathy for V. Ramachandran, for the Appellant;

Judgement

R. Jayasimha Babu, J.—The Agricultural Income Tax Appellate Tribunal, Madras, has negatived the assessee''s claim for exemption from

taxes for the assessment year 1983-84 on the ground that the assessee had failed to comply with the requirement of section 4(b) of the Tamil

Nadu Agricultural Income Tax Act, 1955, inasmuch as the assessee had failed to prove that for the assessment year in question, the assessee''s

income from the property held in trust wholly or partly for charitable or religious purpose, to the same extent to which the income derived from

property held under trust wholly or partly for charitable or religious purposes, is not included in its total income for the purposes of the Income Tax

Act, 1961. Though the assessee had contended before the Tribunal that the Appellate Assistant Commissioner was in error in observing that the

exemption order under the Central Act had not been produced, the assessee did not produce any such order before the Tribunal. No such order

has been produced before us even though this matter is pending for almost ten years.

2.The Government Advocate states at the Bar after examining the records of the Appellate Assistant Commissioner that the file does not contain

any order made under the Income Tax Act, 1961, holding the assessee''s income as exempt for tax on the ground that it is a charitable institution

for this assessment year.

Section 4(b) of the Tamil Nadu Agricultural Income Tax Act reads as under:

any agricultural income derived from property held under trust, wholly or partly for charitable or religious purposes, to the same extent to Which

income derived from property held under trust wholly or partly for charitable or religious purposes, is not included in the total income for purposes

of the Income Tax Act, 1961 (Central Act XLIII of 1961) ;

3. It was therefore necessary for the assessee to show that during the relevant year of assessment, the assessee had been recognised as a

charitable and religious trust under the Income Tax Act and the income derived from the property held by it under trust for charitable and religious

purpose had not been included in the total income for the purposes of the Central Act, for the relevant assessment year.

4. The Tribunal therefore cannot be said to have committed any illegality by upholding the order of the Appellate Assistant Commissioner of

Agricultural Income Tax who had held that the income of the assessee for the relevant assessment year 1983-84 was liable to tax. This revision is

dismissed. No costs.

