(2003) 12 MAD CK 0144

In the Madras High Court

Case No : Tax Case No''s. 28, 266 and 270 of 2000 1 December 2003

Sri Aurobindo Ashram Harpegon Workshop Trust — APPELLANT

Vs

Asstt. CWT — RESPONDENT

Date of Decision : 01-12-2003

Acts Referred:

Citation : (2004) 140 TAXMAN 579

Hon'ble Judges : S.R. Singharavelu, J;R. Jayasimha Babu, J

Bench : Full Bench

Advocate : P.P.S. Janardhanaraja, for the Assessee T. Ravi Kumar, for the Revenue, for the Appellant;

Judgement

R. Jayasimha Babu, J.

The question raised in these appeals by the assessee is as to whether the Tribunal is right in holding that the assessee is not entitled to exemption u/s 5(1) of the Wealth Tax Act.

2. The assessee is a trust whose objects are set out in clause 4-A of the Trust Deed dated 18-12-1967, which reads thus:

"4-A. The objects of the Trust shall be:

(i) To aid and assist in the development and maintenance of Sri Aurobindo International Centre of Education and Sri Aurobindo Ashram or any other Public Trust for charitable purpose and to establish and/or take over and/or purchase and/or otherwise acquire and run and manage services and industries required for the purpose of Sri Aurobindo International Centre of Education and/or Sri Aurobindo Ashram and/or departments connected therewith or any other Public Trust for charitable purpose.

(ii) To organise, encourage, promote, spread and impart all kind of educations and/or aid and/or assist in imparting and/ or contribute to Sri Aurobindo Ashram and/or Sri Aurobindo International Centre of Education for commercial, industrial and other educations both theoretical and practical based on the ideals of Sri Aurobindo and the Mother.

(iii) To carry on practical research, experiments, works, etc., for the solution of labour problems and solve them and demonstrate the solution in actual practice and for this purpose and for promotion and demonstration of harmonious, integrated and right relationship between labour, management and consumers to promote and/or establish model industries and businesses.

(iv) To impart and/or aid in imparting integral education and to promote and to help, the establishment and development of an integral society and life divine in all its aspects and departments on the lines envisaged by Sri Aurobindo and the Mother.

(v) To promote, carry on, aid or assist various works and efforts in connection with labour welfare or for the benefit of labour and/or for finding work for the unemployed.

(vi) To establish and organise, maintain, grant and assist without distinction of religion or community, schools, dispensaries, recreation centres, libraries, Technical and Experts aid and advice bureau, parks, children''s centres, physical culture centres, etc."

2. Clause 4-B of the trust deed obligates the trustees to utilise the entire income and corpus of the trust only for contributing to Sri Aurobindo International Centre of Education and/or to Sri Aurobindo Ashram and/or for the carrying on the objects of the Trust and/or for the development of the activities and properties of the trust. Clause 4-C of the trust deed further obligates the trustees to carry on only such Trade, Commerce and Industry as can be carried on either in the course of actually carrying out of any or part of any of the purposes of Sri Aurobindo Ashram and/or Sri Aurobindo International Centre of Education and/or this Trust.

3. Clause 6 of the deed in its sub-clauses (i) to (xiv) specifies the powers of the trustees in addition to those conferred on the trustees by the general law or other terms of the document. The trust deed is a lengthy document and contains 44 clauses. The assessee-trust has been treated as a public charitable trust within the meaning of section 11 of the Income Tax Act.

4. Section 5(1) of the Wealth Tax Act provides that wealth-tax shall not he payable by an assessee in respect of any "property held by him under trust or other legal obligation for any public purpose of a charitable religious nature in India". There is a proviso under that clause which is not relevant for the present purpose as the revenue has not sought to rely on the same for denying the exemption to the assessee.

5. The term ''charitable'' has not been defined in the Wealth Tax Act. However, in the Income Tax Act in section 2(15) ''charitable purpose'' has been defined in an inclusive way as including "relief of the poor, education, medical relief and the

advancement of any other object of general public utility". The words "not involving in the carrying on any activity for profit which had followed "the object of general public utility" were omitted from the definition by the Finance Act, 1983 with effect from 1-4-1984.

6. This court in the case of Commissioner of Wealth-tax Vs. Gangabai Charities, has held that the interpretation of a trust deed for considering the liability of the trust for being regarded as a charitable trust under the Income Tax Act is relevant for the purpose of considering the claim of such a trust for exempting its properties from wealth-tax under the Wealth Tax Act.

7. The Supreme Court in the case of Commissioner of Income Tax, Madras Vs. Andhra Chamber of Commerce, has held that the incidental benefit received by a member of the chamber would not debar the chamber of commerce from being treated as an institution which is charitable as the benefit received by the executor is only incidental.

8. A Constitution Bench of the Supreme Court in the case of Additional Commissioner of Income Tax, Gujarat Vs. Surat Art Silk Cloth Manufacturers Association, has held that the object of the Surat Art Silk Cloth Manufacturers Association which was to promote commerce and trade in art silk yarn, raw-silk, cotton yarn, etc., was an object of general public utility. It was also held in that case that though the primary purpose of the trust is advancement of objects of general public utility, the institution would remain charitable even if a non-charitable object was mentioned in the deed, provided it was only incidental for achieving the primary purpose of the trust.

9. More recently, a two-Judge Bench of the Supreme Court in the case of DIT Vs. Brarat Diamond Bourse, held that a diamond bourse whose principal object was to facilitate the diamond trade so that maximum revenue could be earned by way of foreign exchange and also make the diamond trade more competitive in the international market, was an object of general public utility and, therefore, charitable.

10. The objects of the trust in this case are clearly such as to entitle the trust to be regarded as charitable trust as all the objects qualify for being treated as objects either for promoting education or as objects of general public utility. This trust, as noticed earlier, has been treated as charitable trust under the Income Tax Act. We see no good ground to treat the trust differently for the purpose of the Wealth Tax Act as the properties held by the trust are burdened with the obligation of being used or applied only for the objects of the trust which are charitable in nature.

11. Learned counsel for the revenue sought to contend that this court has already rejected a similar claim by a trust similar to the one now before us in the case of CIT v. Workshop Trust (1983) 142 ITR 261. In that case, the court considered a trust deed which was executed by a disciple of Shri Aurobindo, who after having started a carpentry workshop, created a trust called a Workshop

Trust. The court held that as the only purpose of the trust was to benefit the Aurobindo Ashram financially and the trust had no other purpose, it was not possible to regard the trust as a charitable trust. It was found that there were no educational objects in the trust that was created, and there was no other object of general public utility and further that the trust that was created did not fall within any other accepted heads of charity. The facts of this case are entirely different. The mere fact that the author of this trust like the author of the other trust considered in that case, are disciples of Sri Aurobindo, does not on that score, render all trust created by such disciples not charitable.

12. The objects of this trust which have been extracted clearly show that the objects were not confined to pass on the income of the business run by the trust to Aurobindo Ashram. The objects are much wider and include objects of general public utility.

13. The numerous powers conferred on the trustees in relation to the actual running of the business does not in any way derogate from the object, as all powers are to be exercised only for the purpose of fulfilling the objects of the trust, and the trustees have no right to distribute among themselves any part of the income or the properties of the trust.

14. Clause 4-B of the Trust deed makes it amply clear that the corpus of the trust was only to be utilised and/or accumulated for contributing to the Aurobindo International Centre of Education and other institutions which are charitable institutions. As held by the Supreme Court in the case of Surat Art Silk Cloth Mfrs. Association (supra), the carrying on of an activity for profit in the course of actually carrying out the primary purpose of the trust would not disqualify the trust from being regarded as a charitable trust. The fact that the trust here carries on a business and derives an income therefrom and holds properties for the purpose of running the business does not, disable it from being regarded as a charitable trust and the properties held by it as being held for a charitable purpose. It is not the case of either the revenue or the assessee that the properties held are for religious purposes.

15. The view taken by the Tribunal that the properties held by this Trust are not held for charitable purpose is, therefore, erroneous. The appeal is allowed. The question set out earlier is answered in favour of the assessee and against the revenue.

Appeal allowed.

