

(1994) 12 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No's. 198 to 202 of 1989

Thanthi Trust

APPELLANT

Vs

Assistant Commissioner of Income Tax

RESPONDENT

Date of Decision : 19-12-1994

Acts Referred:

Income Tax Act, 1961 — Section 11, 11(1), 11(4), 12, 13

Citation : (1995) 213 ITR 626

Hon'ble Judges : T. Somasundaram, J; K.A. Swami, J

Bench : Division Bench

Advocate : Dr. Debi Prasad Pal, for the Appellant; S.V. Subramanian, for the Respondent

Judgement

This Judgment has been overruled by : The Assistant Commissioner of Income Tax, Madras Vs. Thanthi Trust etc. etc., AIR 2001 SC 1043 : (2001) 2 JT 229 : (2001) 1 SCALE 522 : (2001) 1 SCR 727 : (2001) AIRSCW 702 : (2001) 1 Supreme 559

T. Somasundaram J.

1. These writ petitioners have been filed for these of write of certiorari to quash the orders in No. 47-005-AZ-5117 of 1979-80 to 47-005-AZ-5117 of 1983-84 dated July 28, 1988, made in respect of the assessment years 1979-80 to 1983-84, respectively, on the petitioner-trust.

2. The petitioner-trust was created an instrument of declaration of trust on March 1, 1954, for the purpose of establishing the Tamil daily ("Daily Thanthi") by the founder of the said newspaper one Sri S. B. Aditanar, who was carrying on the business of printing and publishing of the said newspaper as a sole proprietor since 1942. The petitioner-trust is an assessee on the file of the respondent-income tax Officer in P.A. No. 47-005-AZ-5117.

3. On July 9, 1957, the founder of the trust executed a supplementary deed wherein he declared that the trust created by the document dated March 1,

1954, was irrevocable. Again, the founder of the trust, on June 28, 1961, executed a supplementary deed. By the said supplementary deed, the founder directed that the surplus income of the said trust, after defraying all the expenses, should be devoted by the trustees for the following purposes :

1. Establishing and running a school or college for the teaching of journalism.
2. Establishing and/or running or helping to run schools, colleges or other educational institutions for teaching arts and science.
3. For establishing of scholarships for students of journalism, arts and science;
4. Establishing and/or helping to run hostels to students;
5. Establishing and/or helping to run orphanages; and
6. Other education purposes.

4. For the assessment year 1968-69, the previous year ending June 30, 1967, the petitioner filed its return of income on October 10, 1968, admitting and income of Rs. 13,62,954 and claimed exemption u/s 11 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), on the ground that 75 per cent. of such income had been applied for charitable purposes, and the assessee-trust filed a return declaring a net income of Rs. 11,99,300 for the assessment year 1969-70 and claiming exemption in respect thereof u/s 11 of the Income Tax Act, 1961. The Income Tax Officer rejected the assessee's claim for exemption u/s 11(1) for the assessment years 1968-69 and 1969-70. Aggrieved by such assessment, the assessee preferred an appeal in Income Tax Appeals Nos. 21 and 41 of 1972-73 before the appellate authority contending that the reasons given by the Income Tax Officer for denying the exemption were not proper and sound.

5. In respect of the assessment years 1968-69 and 1969-70, the appellate authority held that it would be safe to presume that the High Court in C.S. No. 90 of 1961 upheld the validity of the supplementary deed dated June 28, 1961. He also held that the High Court by passing judgment and decree in the manner it had done in C.S. No. 90 of 1961, had accepted the assessee's plea that the original objects of the trust had been fulfilled and, hence, the decree passed by the High Court was mandatory in nature and all the authorities functioning within its jurisdiction were bound to follow the same. On the question as to whether the assessee could be said to have applied its income for charitable purposes, the appellate authority held that in view of the fact that the college authorities had subsequently withdrawn and utilised the amount credited to its account in the books of the assessee, it could not be said that the assessee had not applied its income for charitable objects. He also stated that there was no time-limit prescribed by the Act for such application. Aggrieved by the order of the appellate authority, the Income Tax Officer preferred an appeal to the Income Tax Appellate Tribunal. The Income Tax Officer preferred an appeal Tribunal by its order dated April 22, 1978, and September 25, 1978, has held that by reason of

the judgment and decree of this court in C.S. No. 90 of 1961, the objects of the trust are only those set out in the schedule to the decree and they are charitable objects and that petitioner will be entitled to exemption from tax in respect of such income derived from the business as is shown to have actually parted by it and actually spent on such charitable objects during the relevant previous years. On a reference made by the Tribunal, the Division Bench of this court in Tax Cases Nos. 1240 to 1245 of 1979 held that the petitioner trust is entitled to claim exemption u/s 11 of the Act. This judgment is reported in Commissioner of Income Tax Vs. Thanthi Trust, . The SLP filed by the Department was dismissed by the Supreme Court.

6. By Act 41 of 1975, the following clause was inserted in section 13 of the Act as section 13(1)(bb) with effect from April 1, 1977 :

"13. (1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof -

(bb) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any business, any income derived from such business, unless the business is carried on in the course of the actual carrying out of a primary purposes of the trust or institution.

7. In the course of assessment for the years 1979-80 to 1983-84, the respondent raised the objection regarding the claim of exemption u/s 11 of the Act on the ground that by virtue of section 13(1)(bb) of the Act the trust is not entitled to claim exemption. The petitioner herein contended that the Division Bench of this court has categorically held that the business is carried on in the course of actually carrying out of the purpose of the trust and hence the petitioner is entitled to claim exemption. The respondent has rejected that contention holding that the decision of this court will not be applicable after the introduction of section 13(1)(bb). On this ground, the respondent has passed orders for all the assessment years holding that the petitioner is not entitled to claim exemption. In the above circumstances, the petitioner-trust has filed these write petitions seeing the relief set out earlier in the opening paragraph of this order.

8. Dr. Debi Prasad Pal, learned senior counsel for the petitioner, contended that the Division Bench of this court in Tax Cases Nos. 1240 to 1245 of 1979 which is the petitioner's own case, Commissioner of Income Tax Vs. Thanthi Trust, relating to the assessment years 1968-69 and 1969-70 has held that the petitioner is entitled to exemption u/s 11 of the Act, inasmuch as the business is carried on by the trust in the actual carrying out of the objects of the trust. Learned senior counsel has further contended that in view of the categorical findings of the Division Bench of this court, in the petitioner's own case Commissioner of Income Tax Vs. Thanthi Trust, , while interpreting the trust deeds in question, that the charitable objects enumerated in the trust deeds and

referred to in the schedule to decree in C.S. No. 90 of 1961, fall within the first two categories of charitable objects and in view of the finding of this court that the primary purpose is to carry out the charitable object and the business is carried on as a means in the actual carrying out of the primary purpose the respondent cannot ignore the said finding of the court and apply section 13(1)(bb) of the Act, when on the basis of the said finding of this court, which is in the express language of section 13(1)(bb), the petitioner-trust is entitled to the exemption u/s 11 of the Act. Learned senior counsel also contended that in view of the said finding of the Division Bench of this court in the petitioner's own case, in respect of the assessment years 1968-69 and 1969-70 interpreting the very same trust deed and the objects referred to in the schedule to the decree in C.S. No. 90 of 1961, the respondent is not at all correct in denying the exemption to the petitioner u/s 11 of the Act.

9. Per contra, Mr. S. V. Subramanian, learned senior counsel for the Revenue, submitted that the exemption u/s 11 of the Act will not be available to the petitioner for the assessment years 1979-80 to 1983-84, in view of section 13(1)(bb) of the Act. Learned senior counsel for the Revenue also contended that the decision of the Division Bench of this court in Tax Case Nos. 1240 to 1245 of 1979, in the petitioner's own case Commissioner of Income Tax Vs. Thanthi Trust, , will not be applicable to the case of the petitioner, after the introduction of section 13(1)(bb) of the Act. Learned senior counsel further contended that the petitioner has got effective alternative remedy by way of appeal to the appellate authority and a further appeal to the Tribunal as against the orders challenged in these writ petitions and that the petitioner should not be permitted to bypass the effective alternative remedies available under the statutes and, accordingly, the writ petitions are liable to be dismissed on this ground also.

10. In the light of the rival contentions of learned senior counsel for the parties, the following points arise for consideration in these write petitions :

1. On the facts and circumstances of the case, whether the respondent is correct in denying the exemption to the petitioner-trust u/s 11 of the Act for the assessment years 1979-80 to 1983-84, in view of section 13(1)(bb) of the Act.

2. Whether the writ petitions are liable to be dismissed on the ground that the petitioner has not exhausted the alternative remedies available under the Act.

11. Point No. 1. - The contention of learned senior counsel for the Revenue is that after the decision of the Division Bench of this court in Commissioner of Income Tax Vs. Thanthi Trust, , section 13(1)(bb) has been inserted (sic) and that in view of the laid section 13(1)(bb) of the Act, the petitioner cannot claim the exemption u/s 11 of the Act, inasmuch as the petitioner has not established that the business is carried on by the trust in the course of the actual carrying out of the primary purpose of the trust. In view of the said contention of learned senior counsel for the Revenue, the main question we have to consider here is whether the petitioner-trust is a charitable trust for the relief of the poor,

education, medical relief and whether the business is carried on by the petitioner-trust in the course of the actual carrying out of the primary purpose of the trust to enable the petitioner-trust to claim exemption u/s 11(1) of the Act, in respect of the income derived from such business, notwithstanding the provision contained in section 13(1)(bb) of the Act. According to section 11(1)(a) of the Act, the income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India, and, where any such income is accumulated for application to such purposes in India, to the extent to which the income is accumulated or set apart is not in excess of 25 per cent. of the income from such property, shall not be included in the total income of the previous year of the person in receipt of the income. Section 11(4) of the Act provides that for the purposes of section 11 "property held under trust" includes a business undertaking so held. According to section 2(15) of the Act, "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit. Section 13(1)(bb) of the Act came into effect (inserted by the Taxation Laws (Amendment) Act, 1975) with effect from April 1, 1977. As already stated, the petitioner-trust was created by the founder under an instrument of declaration of trust on March 1, 1954, for the purpose of establishing the Tamil daily ("Daily Thanthi") and the founder of the trust on June 28, 1961, executed a supplementary deed, in any by which the founder directed that the surplus income of the said trust after defraying all the expenses should be devoted by the trustees for the purposes already stated. The trustees thereafter took out originating summons and instituted C.S. No. 90 of 1961 in the original side of this court under Order 13(1)(g) of the Rules of this court (original side) and prayed for the determination of the question as to whether they were bound under the deed dated March 1, 1954, and the deed dated June 28, 1961, to utilise the surplus funds of the trust, after defraying all expenses in connection with the newspaper for one or more of the purposes mentioned in the supplementary deed. This court, by its judgment in C.S. No. 90 of 1961 dated March 2, 1962, held that the object of the trust was not in any manner opposed to law and there was nothing illegal in the prayer being allowed and, consequently, a decree was passed in C.S. No. 90 of 1961 declaring that plaintiffs in the suit were bound under the trust deeds dated March 1, 1954, and June 28, 1961, to utilise the surplus income and funds of the petitioner-trust, after defraying all the expenses in connection with the newspaper business, for one or all the purposes set out in the schedule to the decree. In the schedule to the decree in C.S. No. 90 of 1961, six purposes mentioned in the deed dated June 28, 1961, were mentioned. For the assessment years 1968-69 and 1969-70, the petitioner filed returns claiming u/s 11 of the Act. The Income Tax Officer rejected the petitioner's claim for exemption u/s 11(1) of the Act. Thereafter, the petitioner filed appeals before the appellate authority against the order of the Income Tax Officer refusing exemption. The appellate authority as well as the Tribunal held that by reason of the judgment and decree of this court in C.S. No. 90 of 1961, the object of the

trust were only those set out in the schedule to the decree and these were charitable objects and that the assessee would be entitled to exemption from tax in respect of such income derived from the business as was shown to have been actually parted with by it and spent on such charitable objects during the relevant previous years. On a reference, at the instance of both the assessee and the Revenue, the following questions were referred to this court for opinion, in Tax Cases Nos. 1240 to 1245 of 1979 (see Commissioner of Income Tax Vs. Thanthi Trust,), in respect of the said assessment years 1968-69 and 1969-70 (at page 745) :

"(1) Whether, on the facts and in the circumstances of the case, by reason of the judgment and decree of the Madras High Court in C.S. No. 90 of 1961, the objects of the trust are only those that are set out in the schedule to the said decree and not those for which the trust was originally founded and that such objects are charitable objects within the meaning of section 2(15) of the Income Tax Act, 1961 ?

(2) Whether, on the facts and in the circumstances of the case, the trustees are not bound to apply the income that is left after meeting the lawful and normal expenses for running the business for carrying out the objects set out in the schedule to the decree in C.S. No. 90 1961 ?

(3) Whether, on the facts and in the circumstances of the case the Tribunal was right in holding that the trust is in respect of the entirety of the business for the objects mentioned in the schedule to the decree in C.S. No. 90 of 1961 on the file of the High Court, Madras, and not merely in respect of the income from the said business ?

(4) Whether, on the facts and in the circumstances of the case, the mere crediting of 75 per cent. of the assessee's income to the accounts of Adityanar College of Arts and Science in the assessee's books will amount to application within the meaning of section 11 of the Income Tax Act, 1961 ?

(5) Whether, on the facts and in the circumstances of the case, such application of income should take place during the relevant accounting years for claiming exemptions u/s 11 of the Act ?

(6) Whether, on the facts and in the circumstances of the case, the assessee is entitled to exemption in respect of Rs. 3,04,035 only for the assessment year 1968-69 ?"

12. Question Nos. 1, 2, 3 and 6 referred above, had been referred at the instance of the Revenue and questions Nos. 4 and 5 had been referred at the instance of the trust. As question Nos. 1 to 3 referred to above, dealt with the scope and validity of the trust deed dated March 1, 1954, the scope and validity of the supplementary deed dated June 28, 1961, and the scope and the binding nature of the decree in C.S. No. 90 of 1961 on the file of this court, and scope of the exemption provision inspection 11 of the Act, the Division Bench, which

heard the tax cases, dealt with them together. In Tax Cases Nos. 1240 to 1245 of 1979 - Commissioner of Income Tax Vs. Thanthi Trust, , the Division Bench of this court, repelling the contentions of the Revenue that the judgment in C.S. No. 90 of 1961 cannot bind the Revenue and that the property under the petitioner-trust cannot be taken to have been held under a legal obligation to perform the charitable object, held that the decision in C.S. No. 90 of 1961 creates a legal obligation on the trustees to expend the income from the trust after defraying the expenses of the newspaper business for the charities set out in the schedule to the decree and therefore, the trust property which is the business itself, should be taken to be held under a legal obligation for the various charitable objects. The Division Bench while rejecting the contentions of the Revenue in that case, that Since the main and predominant object of the trust is to carry on a business, it cannot have the benefit of section 11 of the Act and that if a business activity is carried on for earning profit it ceases to be a charitable object also held as follows (at page 762) :

"In this case the property held under trust or under legal obligation is the business itself and the entire income from the business has to be utilised for the various charitable objects set out in the schedule to the decree in C.S. No. 90 of 1961. Thus, the objects will clearly fall under the head "relief of the poor, education, medical relief, etc.", and merely because the trust is carrying on an activity for profit for the purpose of carrying on the charitable objects referred to in the schedule to the decree, it cannot be deprived of the benefit of section 11."

13. The Division Bench followed the principles laid down by the Supreme Court in Additional Commissioner of Income Tax, Gujarat Vs. Surat Art Silk Cloth Manufacturers Association, for coming to the above conclusion. The Division Bench in Commissioner of Income Tax Vs. Thanthi Trust, , on a consideration of the nature and character of the trust deed dated March 1, 1954, and the supplementary trust deed dated June 28, 1961, the objects of the trust created under the trust deeds referred to above, and the judgment in C.S. No. 90 of 1961 on the file of this court, and in the light of the principles laid down by on the file of this court, and in the light of the principles laid down by the Supreme Court in Additional Commissioner of Income Tax, Gujarat Vs. Surat Art Silk Cloth Manufacturers Association, , has held as follows (at page 763) :

"In the case on hand the property held under trust is the business itself and the business is carried on only, and exclusively, for carrying out the charitable objects set out in the schedule to the decree in C.S. No. 90 of 1961. As pointed out by the Supreme Court, if the contention of the Revenue that once a trust carries on a business activity it loses the benefit of section 11 is accepted, no trust can carry on any business even for the fulfilment of the charitable objects, such as, relief of the poor, education and medical relief and, therefore, such a contention cannot be accepted. If the intention of the legislature were to prohibit a trust or institution established for a charitable purpose or for the promotion of an object of general public utility from carrying on any activity for profit, it would

have provided in the clearest terms that no such trust or institution should carry on any activity for profit. On the other hand, the Legislature by enacting section 11(4) under which the business may also be the property held under trust appears to contemplate a trust actually carrying on a business for charitable purposes or for general public utility.

In this case, the founder of the trust has clearly evinced an intention to create a public charitable trust as seen from the preamble and clause 3(k) of the original trust deed and the charitable objects referred to in the schedule to the decree in C.S. No. 90 of 1961 have to be fulfilled from and out of the income from the business which is directed to be held under trust or other legal obligation. Those charitable objects fall within the first two categories referred to in section 2(15), viz., relief of the poor and education. It is to carry out and fulfill those objects the business is being carried on. This, the primary purpose is to carry out the charitable objects and the business is carried on as a means in the course of the actual carrying out of that primary purpose and not as an end in itself. While the predominant object of the trust is the carrying out of the charitable objects referred to in two of the three categories of charitable purposes referred to in section 2(15), the carrying on of the business which is actually the property held under trust or other legal obligation is incidental, and the profit resulting from the business can be taken to be a by-product. In view of the said decision of the Supreme Court in *Additional Commissioner of Income Tax, Gujarat Vs. Surat Art Silk Cloth Manufacturers Association*, it is not possible to accept the case of the Revenue that the trust in this case cannot claim the benefit of exemption u/s 11 merely because it carries on a commercial activity for profit. We have, therefore, to agree with conclusion of the Tribunal that the trust in this case can claim the benefit of section 11, if 75 per cent. of its income has been applied for charitable purposes and answers question Nos. 1 to 3 in the affirmative and against the Revenue."

14. In view of the findings recorded as above, the Division Bench in *Commissioner of Income Tax Vs. Thanthi Trust*, answered question Nos. 1 to 6 referred to it, for opinion, in the affirmative and against the Revenue. The Revenue, aggrieved by the judgment of the Divisions bench in *Commissioner of Income Tax Vs. Thanthi Trust*, filed special leave petitions before the Supreme Court, in Civil Nos. 10007-12 of 1981. The apex court, by its order dated February 24, 1984 (see [1984] 146 ITR 187, granted special leave only in respect of question Nos. 4, 5 and 6, referred for the opinion of this court and dismissed the SLP with regard to question Nos. 1 to 3. Therefore, the first three questions answered by the Division Bench in favour of the petitioner in *Commissioner of Income Tax Vs. Thanthi Trust*, had become final and the findings rendered by the Division Bench with regard to question Nos. 1 to 3 are binding on both the petitioner-trust as well as the Revenue. Thus, in the petitioners own case, relating to the assessment orders 1968-69 and 1969-70, the Division Bench in the decision referred to above after considering the trust deed, supplementary deed and the effect of the judgment in C.S. No. 90 of 1961,

on the file of this court, has rendered a categorical finding that the counter of the trust, has created a public charitable trust, that the decision in C.S. No. 90 of 1961 creates a legal obligation on the trustees to spend the income from the trust, after defraying the expenses of the newspaper business for the charities set out in the schedule to the decree and, therefore, the trust property, which is the business itself, should be taken to be held under a legal obligation for the various charitable objects, that the charitable objects referred to in the schedule to the decree C.S. No. 90 of 1961 have to be fulfilled from and out of the income from the business which is directed to be held under trust or others legal obligation, that those charitable objects fall under relief of the poor and education, referred to in section 2(15) of the Act and that the primary purpose of the trust is to carry out the charitable objects and the business is carried on only as a means in the course of the actual carrying out of the primary purpose of the trust and not as an end in itself.

15. The above findings of the Division Bench in Commissioner of Income Tax Vs. Thanthi Trust, have been rendered in a proceeding between the same parties interpreting the very same trust deeds and the decision in C.S. No. 90 of 1961. Therefore, we are clearly of the view that the said findings which have become final are binding on the Revenue and it is not open to the Revenue to contend that the petitioner is not a charitable trust for the relief of the poor and education, and that the business is not carried on by the petitioner-trust in the course of the actual carrying out of the primary purpose of the trust and that the petitioner-trust cannot claim the exemption u/s 11(1) of the Act for the assessment years in question. Further, in view of the categorical finding rendered by the Division Bench in CIT v. Thanthi Trust [1982] 137 (Mad) that the primary purpose of the trust is to carry out the charitable objects and that the business is carried on as a means in the course of the actual carrying out of the primary purpose of the trust, we have no hesitation in holding that the requirement of the last portion of section 13(1)(bb), namely, "unless the business is carried on in the course of the actual carrying out of a primary purpose of the trust or institution" is satisfied by the petitioner and, therefore, section 13(1)(bb) of the Act cannot stand in the way of the petitioner claiming the benefit of exemption u/s 11(1) of the Act. We must also point out here that though the decision in Commissioner of Income Tax Vs. Thanthi Trust, was rendered by the Division Bench, with regard to the assessment years 1968-69 and 1969-70, and section 13(1)(bb) of the Act was introduced with effect from April 1, 1977, inasmuch as the finding rendered by the Division Bench in the said decision is in express language of section 13(1)(bb) of the Act, it is not open to the Revenue to contend that the decision in Commissioner of Income Tax Vs. Thanthi Trust, will not be applicable to the petitioner's case in respect of the assessment years in question, after the introduction of section 13(1)(bb) of the Act. In view of the above legal and factual position, the respondent is not at all correct in taking the view in the impugned orders, that the decision in Commissioner of Income Tax Vs. Thanthi Trust, will not be applicable to the case of the petitioner, after the

introduction of section 13(1)(bb) of the Act.

16. The respondent, in the impugned orders, has recorded the following reasons for holding that the petitioner is not entitled to the exemption u/s 11 of the Act :

"..... It is admitted that the assessee's main object is education. According to section 13(1)(bb), section 11 or 12 has no application, in the case of a charitable trust or institution for the relief of the poor, education or medical relief which carries on any business, any income derived from such business unless the business is carried on in the course of the actual carrying out of the primary objects of the trust or institution. Running a newspaper business cannot be held to be in the course of carrying out of the primary purpose of education. Probably if an educational institution also undertakes printing of text books and supplies it to students, it can be held that business is carried on in the course of actually carrying out of the primary purpose of the educational institution. Hence, I hold that in view of the introduction of section 13(1)(bb), the assessee-trust is not entitled for exemption u/s 11."

17. The reasons given above by the respondent, denying the exemption to the petitioner u/s 11 of the Act, are clearly erroneous and contrary to the categorical finding of the Division Bench of this court in CIT v. Thanthi Trust [1982] 137 735, which has become final and which is binding on the Revenue. Therefore, we are clearly of the view, that the impugned orders are illegal and are liable to be quashed.

18. For all the reasons stated above, we have no hesitation in holding that the respondent is not correct in denying the exemption to the petitioner-trust u/s 11 of the Act for the assessment years 1979-80 to 1983-84. Point No. 1 is answered accordingly.

19. Point No. 2. - No doubt, the petitioner is having an effective alternative remedy by way of appeal before the appellant authority and further appeal before the Tribunal and these writ petitions could not have been entertained, if this objection, regarding the maintainability was raised and brought to the notice of this court, when these writ petitions came up for admission or immediately thereafter. However, it is seen from the records, that the writ petitions have been entertained in January, 1989, and they are pending for nearly five years. The counter-affidavits in these writ petitions have been filed before this court, only on November 28, 1994, when these writ petitions were taken up for final hearing raising the contentions that the petitioner is having an alternative remedy and that the writ petitions are liable to be dismissed on that ground. However, as the writ petitions have been admitted and kept pending before this court all these years, we are of the view that it is not proper to dismiss these writ petitions, at this stage, on the ground that the petitioner has not exhausted the alternative remedy. Inasmuch as these cases involve interpretation of section 13(1)(bb) of the Act on the undisputed facts of the cases and as it is also in the interest of the Revenue to have the issue in question settled early, the petitioner is not

directed avail of the remedy of appeal. Point No. 2 is answered accordingly.

20. In the result, in view of our finding on points Nos. 1 and 2 the writ petitions are allowed, the orders challenged in these writ petitions are quashed and the matters are remitted to the respondent, with a direction to proceed afresh and complete the assessments for the years 1979-80 to 1983-84, according to law and in the light of our findings in this common order, with regard to the petitioner's claim for exemption u/s 11 of the Act. However, the re will be no order as to costs.