

Auroboutique Trust Vs Commissioner of Income Tax

Court: Madras High Court

Date of Decision: Aug. 28, 2002

Citation: (2002) 178 CTR 352

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

Bench: Full Bench

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

Judgement

R. Jayasimba Babu, J.

The question referred to us at the instance of the assessee is as to whether, on the facts and in the circumstances of the case, the Tribunal was right

in holding that the assessee charitable trust is not entitled to exemption u/s 11 of the Income Tax Act, 1961, for the assessment years 1984-85 and

1985-86, because of the new sub-section (4A) introduced therein by the Finance Act, 1983, with effect from 1-4-1984. The assessment years

are 1984-85 and 1985-86.

2. The assessee-trust while carrying on business in handicrafts transferred the profits of the business to recognised educational institutions such as

Sri Aurobindo Ashram International Centre of Education. It's claim for exemption for it's income u/s 11 of the Income Tax Act was rejected by

the assessing officer on the ground that the assessee did not satisfy the conditions laid down in section 11(4A) of the Act. Further appeal by the

assessee to the Commissioner (Appeals) and thereafter to the Tribunal did not bear any fruit.

3. The Supreme Court in the case of Assistant Commissioner of Income Tax Vs. Thanthi Trust, held that :

This brings us to the second controversy, relevant to the assessment years 1984-85 to 1991-92 during which period of time sub-section (4A) of

section 11, as originally enacted, was in operation. It was contended by the learned Solicitor General that by reason of sub-section (4A) the

income derived from a business held under trust wholly for charitable or religious purposes would not be included in the total income of the

previous year in the case only of (a) a trust for public religious purposes, if the business was of printing and publishing books or of a notified kind,

or (b) an institution wholly for charitable purpose, if the work in connection with the business was mainly carried on by the beneficiaries of the

institution, provided that separate books of accounts had been maintained in respect of such business.

The court held in that case that the newspaper business carried on by the assessee did not fall within the sub-section (4A). It also held that, the

trust is not only for public religious purpose so it does not fall within clause (a). It is a trust not an institution, so it does not fall within (b). It must,

therefore, be held that for the assessment years in question, the trust was not entitled to exemption contained in section 11 in respect of the income

of its newspaper.

4. The trust here also is not a trust for religious purpose nor is it an institution. The assessee clearly was not entitled to exemption for these

assessment years. The question referred to is answered in favour of the revenue and against the assessee.

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