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**(2002) 03 MAD CK 0193**

**Madras High Court**

**Case No:** Tax Case No"s. 429 and 430 of 1999

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|---|---|
| Director of Income Tax (Exemptions) | APPELLANT |
| Vs | |
| Vasireddi Rajah Ramagopala Krishna Maheswara Prasad Bahadur Charitable Trust | RESPONDENT |

**Date of Decision:** March 21, 2002

**Acts Referred:**

- Income Tax Act, 1961 - Section 11

**Citation:** (2004) 186 CTR 205 : (2003) 263 ITR 144 : (2004) 138 TAXMAN 257

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

**Bench:** Division Bench

**Advocate:** Pushya Sitaraman, for the Appellant; P.P.S. Janardhana Raja, for the Respondent

**Judgement**

R. Jayasimha Babu, J.
Two questions have been referred to us at the instance of the Revenue. The assessment years are 1983-84 and 1984-85. The questions are :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the assessee is entitled to deduction u/s 80L ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that denial of exemption u/s 11 should be restricted to the income arising from investments which are in contravention of the provisions of Section 13(1)(d) of the Act and that the Income Tax Officer should re-examine the assessee"s claim in the light of its decision in the case of Thuluva Vellala Association ?"

2. We will consider the second question first. Section 13(1)(d) of the Income Tax Act was amended by the Finance (No. 2) Act, 1991, with retrospective effect from April 1, 1983, and proviso (iia) was added therein by which the time for disinvestment by charitable trusts was extended up to March 31, 1993. Thus, the investment held by the charitable trust contrary to the requirement of Section 11(5) of the Act in the years prior to March, 1993, would not disable them from claiming the benefit of Section 11 of the Act.

3. The benefit of that retrospective amendment is available to the assessee as the two assessment years with which we are now concerned are subsequent to April 1, 1983, and prior to March 31, 1993.

4. The second question, therefore, is answered by holding that the assessee is entitled to the benefit of Section 11 of the Act, notwithstanding the fact that that some of which investments were made contrary to the requirements of Section 11(5) of the Act, having regard to proviso (iia) of Section 13(1)(d) of the Act. As the assessee is entitled to the exemption in full, the Tribunal"s direction to the Assessing Officer to re-examine the case of the assessee in the light of its earlier judgment does not survive.

5. As the assessee is entitled to exemption of its income u/s 11 of the Act, there is no need to invoke Section 80L of the Act. It is therefore unnecessary to answer the first question, as it does not survive for consideration.