

Victoria Technical Institute

Vs

Addl. Commissioner of Income-tax, Madras and Another

C.A. Nos. 4193-4203 of 1982

(K.N. Saikia, R.M. Sahai JJ)

16.11.1990

JUDGMENT

1. This appeal by certificate is from the Judgment and Order of the Madras High Court in T.C. Nos. 383 of 1984 and 780-789 of 1976, since reported in 120 ITR 358 : (1979 TLR (NOC) 149). The following two questions of law were referred for the opinion of the High Court:

"1. Whether the income derived by the assessee from its General Fund and South Indian Women Workers Executive Committee Fund is entitled to exemption under S. 11 of the Income-tax Act, 1961, for the assessment years 1962-63 to 1971-72?

2. Whether, on the facts and in the circumstances of the case, the income from the Purchase and sale of handicrafts, without setting up educational institutions or training centres for a

advancement of studies would constitute charitable purpose and would, as such, qualify for exemption?"

2. By a common judgment dated April 12, 1978 the Madras High Court held that the advancement of the object of general public utility was linked or connected with an activity for profit and that the object of the assessee was not a "charitable purpose" within the meaning of Section 2(15) of the Act. In arriving at that judgment the High Court mainly relied on a decision of this Court in Indian Chamber of Commerce v. Commissioner of Income-tax, West Bengal 101 ITR 796: (AIR 1976 SC 348), which has subsequently been explained by this Court in Addl. Commissioner of Income-tax, Gujarat v. Surat Art Silk Cloth Manufacturers Association 121 ITR 1 : (AIR 1980 SC 387).

3. It is contended for the appellants that the objects of the assessee Victoria Technical Institute are

"charitable purposes" and the mere fact that under objects sub-clause (f) buying and selling or selling on commission the articles produced by handicraftsmen or otherwise' will not disentitle the assessee from the exemption. The learned counsel for the revenue submits that it would depend on the scale or magnitude of such operation of buying and selling or selling on commission articles and, therefore, this case is distinguishable. But there is nothing to show that this function is otherwise than in carrying out of the primary purpose. In Addl. Commissioner of Income-tax, Gujarat v. Surat Art Silk Cloth Manufacturers Association (supra), it has been held

that the words "not involving the carrying on of any activity for profit" qualify or govern only the last head of charitable purpose and not the earlier three heads. Where, therefore, the purpose of a trust or institution is relief of the poor, education or medical relief, the requirement of the definition of "charitable purpose" would be fully satisfied, even if an activity for profit is carried on in the course of the actual carrying out of the primary purpose#of the trust or institution. When the purpose of a trust or institution is the advancement of an object of general public utility, it is that object of general public utility and not its accomplishment or carrying out which must not involve the carrying on of any activity for profit. So long as the purpose does not involve the carrying on of any activity for profit, the requirement of the definition would be met and it is immaterial how the monies for achieving or implementing such purpose are found, whether by carrying on an activity for profit or not. The instant case is accordingly found to be squarely covered by the decision in Addl. Commissioner of Income-tax, Gujarat . Surat Art Silk Cloth Manufacturers Association (supra) and the questions have to be, and are, answered in favour of the assessee and against the revenue.

4. These appeals are accordingly allowed. There will be no order as to costs. Reference answered in favour of assessee.

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