Vs — T.C.A. No. 507/2010

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TCA No. 507 of 2010 IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED: 16-04-2026 CORAM THE HON'BLE DR JUSTICE G. JAYACHANDRAN AND THE HON'BLE MR.JUSTICE R.SAKTHIVEL TCA No. 507 of 2010 Commissioner Of Income Tax Central Ii, Chennai. ..Appellant(s) Vs Shri Ponnaiyah Ramajeyathammal Educational And Charitable Trust, No.33, 34, Natarajapuram South Colony, M.C.Road, Thanjavur. ..Respondent(s) For Appellant(s): M/s.Narayanaswamy, Senior Standing Counsel For Respondent(s): Mr.T.Pramodkumar Chopda, Sr.Counsel for Mr.S P.PRITHVI Chopda JUDGMENT (Judgment of the Court was delivered by Dr.G.Jayachandran J.)

1. This Tax Case Appeal is filed by the Revenue, aggrieved by the order, dated 10.12.2009, passed in ITA.No.647/Mds/2009, by the Tribunal, setting aside the order passed by the Commissioner of Income Tax, dated 30.03.2009, cancelling the Registration, granted to the Respondent Trust, under of the Income Tax Act, 1961 (herein after referred to as the 'Act'). __________ https://www.mhc.tn.gov.in/judis Page1 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010

2. The Respondent Trust was granted Registration on 02.12.1998. The Respondent Trust is primarily running an Educational Institution, coupled with charitable activities. A search of the person concerned with the Respondent Trust was conducted under of the Act on 05.10.2006 and later, a survey was also conducted. The evidence gathered disclosed the following violations of the Trust Deed:- > 1. Trust funds are invested in the Proprietorship Concerns of the Managing Trustee. > 2. Rent advance of Rs.3,05,24,800/- has been taken from the Trust, though the total value of assets of the Managing Trustee was less than that value. > 3. The Managing Trustee was caught with Rs.1 crore at Chennai Airport and agreed that amount is taken from corpus fund of the rent. > 4. By touching the corpus, the Trustees maligned the sacred concept of the Trust and breached the concept of Trust (Breach of Trust) invested by the donors in the Trust and therefore, the Trust is not entitled for approval under of the Income Tax Act. > 5. Sale of educational Institutions at Natham for a consideration of Rs.1,82,00,000/-. > 6. Compulsory donations such as capitation fees is collected and not accounted for. There are evidences to show that in the form of letters from students asking for refund of capitation fees as they could not join the course. So the claim of corpus donation by the assessee is incorrect and it is actually the capitation fees. > 7. As discussed in the assessment order by the AO the Trust has violated the provisions of almost all sub sections of of the Income Tax Act, 1961. > 8. The supplies and services are charged heavily and no books __________ https://www.mhc.tn.gov.in/judis Page2 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010 maintained to that effect. > 9. Assets are acquired by Trustees out of the funds. > 10.Bank accounts of the Trustees are flooded with the corpus fund of the Trust. > 11.The intention of the donors of corpus fund has ignored and Trustees got enriched out of the trust funds.

3. Dual system of accounting of receipts in the form of fees collected from the students came to light. As a result, after causing a show cause notice on 27.02.2009, the Order in Original was passed, cancelling the Registration granted to the Respondent Trust, invoking of the Act, Commissioner of Income Tax. The Assessee had preferred an appeal before the Income Tax Appellate Tribunal and raised the following grounds:- > 1. The Commissioner is not justified in cancelling the Registration granted to the Assessee-Trust in the circumstances of the case. > 2. The Commissioner is not correct in ignoring the fact that the Assessee-Trust has undisputedly been carrying on its prominent object of providing education genuinely. > 3. A settlement reached between two independent trusts, both working for advancement of education, resulting in handling over Assessee's Institution at Natham for Rs.1.82 crores, cannot be held incorrect by the Department to disentitle its Registration under . > 4. The allegations made in the cancellation order have been contested against in an appeal pending before the Commissioner of Income Tax (Appeals). > 5. Even otherwise, irregularity if any can only lead to assess the Trust on consequent taxable income. __________ https://www.mhc.tn.gov.in/judis Page3 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010

6. Provisions of introduced with effect from 01.10.2004 are not applicable to the Assessee, registered on 02.12.1998 itself.?

4. The Tribunal, on considering the grounds of appeal, had held that the cancellation of the Registration, granted to the Respondent Trust, cannot be withdrawn, even after the amendment to of the Act and insertion of sub clause (3) to the said Section. According to the Tribunal, for cancellation of the Registration, the Authority shall record its satisfaction that the activities of the Trust are not genuine and the activities are not being carried out, in accordance with the objects of the Trust. The Tribunal, referring to the show cause notice, dated 27.02.2009, which has not spelt explicitly to the effect that the activities of the Assessee Trust are not genuine and not carried out in conformity with the objects of the Trust, has held that the action of cancellation of the Registration, pursuant to the show cause notice, which is bereft of details, cannot be sustained. The operative portion of the impugned order is extracted below, for better understanding and appreciation:- Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law holding that the Commissioner of Income Tax had not specified the proposed grounds for cancellation of Registration in the show cause notice issued to the Assessee Trust overlooking the fact that the show cause notice has clearly referred to the evidences gathered in the course of search under of the Income Tax Act and survey under of the Act, relating to gross violations of the Trust deeds and had made specific references to the completion of the assessment years 2001-02 to 2007-08 in the status of “Association of Persons” and taxation at the maximum marginal rate? > 2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Commissioner of Income Tax had no powers to cancel the Registration under in respect of trusts registered before 01.10.2004 and whether the Commissioner of Income Tax had the power to cancel the Registration granted to the Trust since the power of cancellation flowed from the power to grant Registration? > 3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the Trust could not be considered to be aware of the violations committed by __________ https://www.mhc.tn.gov.in/judis Page5 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010 the Managing Trustee overlooking the fact that the Trust being only a judicial entity had to act only through its Managing Trustee and awareness of the Managing Trustee amounted to the awareness of the Trust? > 4. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in disregarding the various violations of the conditions for being recognised as a Charitable Trust, given in detail in the order of the Commissioner of Income Tax under ?

7. For our consideration, it is necessary to examine the show cause notice first, whether it carries necessary ingredients to initiate action for cancellation of the Registration, granted to the Respondent Trust and hence, the contents of the show cause notice are extracted below:- > “Registration under of the Income Tax Act, was granted to your Trust by order of the then Commissioner of Income Tax, Tiruchirappalli on 02.12.1998. A search under of the Income Tax Act conducted on 05.10.2006 in the case of Sri.P.Murugesan, Managing Trustee and consequent survey under conducted in your case and evidences gathered in this regard reveal various gross violations of the Trust Deed. 14.It is the duty of the person, who manages the Trust, to be honest and genuine and to declare their income, in the manner known to law. If they have come under adverse notice either by way of search or seizure, the benefit conferred under of the Act is necessarily to be stopped. In the Order in Original of the Commissioner of Income Tax, what we find as an error, is the cancellation of the Registration, with retrospective effect.

15. The learned counsel for the Revenue, referring to the judgement of the Honourable Supreme Court, reported in 2018 (90) Taxmann.Com (281) SC (, would submit that the cancellation of Registration must be given with effect from 01.10.2004, the date, on which the Statute was amended.

16. From the date and events, furnished by the Revenue Department, it is clear that the Registration for the Trust was granted in the year 1998. The show cause notice was issued on 27.02.2009, much after the amendment. Therefore, there cannot be any quarrel regarding the competency of the Authority to issue a show cause notice for the proposed cancellation of Registration. After hearing the Assessee, the Order in Original, cancelling the Registration of the Trust was passed on 30.03.2009. It does not speak the __________ https://www.mhc.tn.gov.in/judis Page9 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010 effect of the cancellation of the Registration. But, however, on a plain reading of the order, it is to be presumed that the Registration granted to the Trust under of the Act, on 02.12.1998 stands cancelled, indicating that it is to be given effect from the date of Registration itself, which is incorrect and not permissible under law. Therefore, the cancellation can be given effect only from the date of passing the order of cancellation of the Registration, i.e. 30.03.2009. 17.In so far as the contention of the learned counsel for the Respondent that the Tribunal has not considered the materials placed before it and the matter may be remanded back to the Tribunal to consider the materials placed by the Assessee and also the subsequent amendment and the circulars issued by the Department, is concerned, though we were under the impression for remitting the matter back to the Tribunal for re-appreciation, but, after going through the records and the violations mentioned by the Commissioner of Income Tax and the authoritative pronouncement of the Honourable Supreme Court reported in 2018 (90) Taxmann.Com (281) SC (■18†Industrial Infrastructure Development Corporation (Gwalior) MP Limited Vs. 507 of 2010 to approach the Department to get a fresh certificate, after satisfying the requirements, as contemplated under the amended Act. 18.With the above observations, this Case Appeals stands allowed. There is no order as to costs. (G.J.,J.) (R.S.V.,J.) 16-04-2026 Index: Yes/No Speaking/Non-speaking order Neutral Citation: Yes/No SRCM __________ https://www.mhc.tn.gov.in/judis Page11 of 12 https://www.mhc.tn.gov.in/judis TCA No. 507 of 2010 DR.G.JAYACHANDRAN, J. AND R.SAKTHIVEL, J. SRCM TCA No. 507 of 2010 16-04-2026 __________ https://www.mhc.tn.gov.in/judis Page12 of 12 https://www.mhc.tn.gov.in/judis