ITEM NO.32 COURT NO.8 SECTION XII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 7500/2018

(Arising out of impugned final judgment and order dated 15-03-2017 in ITTA No. 56/2017 passed by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh)

COMMISSIONER OF INCOME TAX (EXEMPTION) Petitioner(s)

VERSUS

WATER AND LAND MANAGEMENT TRAINING AND RESEARCH INSTITUTE Respondent(s)

Date : 26-09-2023 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. N. Venkatraman, Ld. ASG
Ms. Nisha Bagchi, Adv.
Mr. V.C.S. Bharathi, Adv.
Mr. Rupesh Kumar, Adv.
Mr. Anmol Chandan, Adv.
Mr. Sabarish Subramanian, Adv.
Mr. Rajat Nair, Adv.
Ms. Priyanka Das, Adv.
Mr. Raj Bahadur Yadav, AOR

Mrs. Anil Katiyar, AOR

For Respondent(s) Mr. Arijit Prasad, Sr. Adv.
Mr. Gunnam Venkateswara Rao, AOR
Mr. Deepak Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The petitioner's grievance is that the respondent's application for registration under Section 12 AA of the Income Tax Act, as an institution carrying on charitable objects, falling within the definition of Section 2 (15) of the Income Tax Act,1951 in furtherance of the protection of the environment was allowed, as a result of the impugned order. The object of the assessee has been set out in the impugned order rejecting its application which are:

(a) To train different level Government functionaries of the Department of Irrigation and Command Area Development and the Department of Agriculture, dealing with aspects relating to water and land management in planning, designing, construction, and operation and maintenance of irrigation;

(b) Promote a full understanding of the principles of efficient operational plans;

(c) Provide a better understanding among the water users of the optimal use of water and land resources;

(d) To function as an apex body on all matters relating to water and land management and render advice to the State;

(e) Provide consultancy services to the State and undertake intensive and need-based research on water and land management.

The respondent relies upon a three-Judge Bench Judgment of this Court in "*M/s. Ananda Social and Educational Trust Vs. The Commissioner of Income Tax*" reported in (2020) 17 SCC 254, where it was observed:

> *"Since section 12AA pertains to the registration of the Trust and not to assess of what a trust has actually done, we are of the view that the term 'activities' in the provision includes 'proposed activities'. That is to say, a Commissioner is bound to consider whether the objects of the Trust are genuinely charitable in nature and whether the activities which the Trust proposed to carry on are genuine in the sense that they are in line with the objects of the Trust. In contrast, the position would be different where the Commissioner proposes to cancel the registration of a Trust under sub-section (3) of section 12AA of the Act. There the*

> *Commissioner would be bound to record the finding that an activity or activities actually carried on by the Trust are not genuine being not in accordance with the objects of the Trust. Similarly, the situation would be different where the trust has before applying for registration found to have undertaken activities contrary to the objects of the Trust."*

In the present case, the Court is of the opinion that the concerned Commissioner, overlooked the circumstance that the category within which the assessee claimed registration as a charitable trust, is considered to be "per se" a charitable object, and does not fall within the description of the residuary clause of a general public utility concern. The impugned order corrected the error.

The Court is of the opinion that there is no infirmity in the impugned order. The special leave petition is, accordingly, dismissed.

All pending applications are disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)