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T.C.A.No.360 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR

T.C.A.No.360 of 2012

Commissioner of Income Tax,
Chennai.

.. Appellant

VS

Ambur Economic Development Organization Ltd.,
Akber Rifa & Co.
C-8 Orchard Manor Apts,
No.3 Diwan Rama Rd,
Purasawalkam,
Chennai 600 084

.. Respondent

Prayer : Appeal filed under Section 260A of the Income-Tax Act, 1961

against the order of the Income Tax Appellate Tribunal, Madras 'B'

Bench dated 28.03.2012 in ITA No. 188/Mds/2012.

For Appellant : Mr.Narayanaswamy
Senior Standing Counsel

For Respondents : Mr.G.Asokapathy
for M/s. Pass Associates



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JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

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The Revenue is in appeal as against an order of the Income Tax Appellate Tribunal (Tribunal / ITAT) dated 28.03.2012.

2. This appeal has been admitted on 05.11.2012 on the following substantial questions of law:-

'Whether on the facts and in the circumstances of the case the tribunal was right in holding that the assessee is entitled for registration under section 12AA.'

3. We have heard Mr.Narayanaswamy, learned Senior Standing Counsel for the Revenue and Mr.Asokapathy, appearing for the respondent / assessee, the Ambur Economic Development Organisation (assessee / respondent / AEDO).

4. The facts in issue are as follows. The assessee was registered as a Company under Section 25 of the Companies Act, 1956 on 02.05.2008.

The main objects are as follows:-

'1. To promote, create, construct, erect, maintain, assist and develop all kinds of infrastructural facilities anywhere in India without any profit motive.

2. To initiate all necessary steps to protect the environment from effluent of industrial and domestic sewerages, air, water, chemicals, betterment of industry and public health other wastes ecology safety needs and using the treated water for industrial, irrigation and domestic purposes.

3. To assist the leather industry, small scale, tiny and cottage industry in all the technical financial research and



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development administration, warehousing facilities, information technology, marketing, training, recruitment and placement.

4. To assist the members and other in the leather industry to modernize production and processing facilities, upgrade the technology, marketing, training, recruitment and placement.'

5. In pursuance of its objects, it had sought and had been sanctioned a grant of a sum of Rupees 67.33 crores, from the Government of India vide an order dated 08.04.2005 bearing No.5/28/2/2004-DBA-I. The purpose of the grant was specific to setting up infrastructural facilities and upgradation thereto, in this case, effluent treatment plants (ETP), in connection with a cluster of leather industries in and around Ambur and Vaniyambadi in the State of Tamil Nadu.

6. The assessee made an application for registration under Section 12A of the Income-Tax Act, 1961 (Act) on 19.05.2011 claiming that it had come into existence on and from 23.7.2001. The application was considered by the Director of Income Tax (DIT) and rejected.

7. The DIT rejected the argument of the assessee that the activities fell within the ambit of preservation of environment and held that the activities were of the nature of general public utility, and that the second proviso to Section 2(15) of the Act, that set out a threshold for receipts from '*objects of general public utility*' was applicable.

8. The DIT noted that there were two companies, one by name



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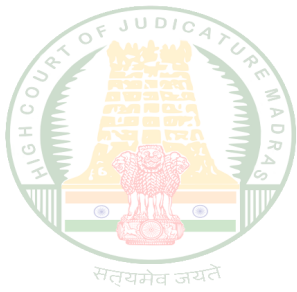
Ambur Tannery Effluent Treatment Company Limited (AMBURTEC) to

maintain the effluent treatment plants set up at Maligaihope and Thuthipet in Ambur, and Vaniyambadi Tannery Effluent Treatment Company Limited (VANITEC) to maintain the effluent treatment plant set up at Vaniyambadi.

9. He was of the view that there was interlacing between the activities of AMBURTEC and VANITEC, with the assessee and hence concluded that the assessee was a taxable entity. Both before the DIT as well as before us, learned counsel from the assessee would point out that both AMBURTEC and VANITEC are entities assessed under the Income tax Act 1961.

10. The assessee had entered into tripartite agreements dated 20.03.2008, and copies are placed before us. The tripartite agreements were between the assessee, both companies, VANITEC and AMBURTEC, and the member units of VANITEC/AMBURTEC, and set out the roles and duties of the three parties.

11. The role of VANITEC and AMBURTEC was to maintain and service the effluent treatment plants on an on-going basis, for which purpose, they collect a service fee from the member units, who are also parties to the tripartite agreement. The service fees are offered to tax in the hands of VANITEC/AMBURTEC, respectively and assessed.



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12. The role of the assessee was overarching, in the sense that AEDC was responsible for the setting up of the effluent treatment plants and their upgradation as and when necessary. Both activities were funded from out of the grant from the Government of India. There is no other significant revenue source as far as the assessee is concerned.

13. Mr.Narayanaswamy does not dispute the above facts, but points out that sanction order dated 08.04.2005 does not anywhere stipulate such demarcation, that the grant is substantial and that the setting up of effluent treatment plants is for industrial units that operate on commercial tariffs as stipulated in the tripartite agreement.

14. Mr.Narayanaswamy would also rely upon the judgment of the Supreme Court in the case of *Assistant Commissioner of Income-Tax (Exemptions) v Ahmedabad Urban Development Authority*¹. He draws attention to the conclusions in that judgment, wherein all appeals have been remitted to the file of the ITAT for verification on the nature of activity carried out by those assesseees. According to him, this would be an appropriate approach to be followed in the present case as well.

15. The Tribunal has accepted the contention of the assessee, that there is a demarcation in the operations of the assessee vis – a – vis the



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operation of the Companies, and that the activity of engaged in by AEDO would fall within the ambit of preservation of environment under Section 2(15) of the Act.

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16. We had called for the audited financials along with balance sheets and statement of accounts for the year ending 31.03.2009, 31.03.2010 and 31.03.2011 and the assessee has provided the same.

17. Having heard both learned counsel, our decision is as follows. As we have noticed supra, there is little dissension on the facts. To recapitulate briefly, the assessee is a Section 25 Company and its sole purpose for existence is to set up and upgrade the effluent treatment plants for the leather industries in Ambur and Vaniyambadi.

18. It does not concern itself with the operation of the effluent treatment plants or the day-to-day functioning of the same, for which purposes, two Companies have been set up, AMBURTEC and VANITEC. Tripartite agreements have been entered into by the assessee, the two companies and member units of the companies.

19. We do not wish to make detailed reference to the tripartite agreements as they have not been placed before the DIT and are not part of the records. However, it is admitted that the receipts earned by the two companies are being offered to tax. In fact, had those receipts been taken to be part of the receipts of the assessee, such receipts may also have



availed the benefit of exemption granted to the assessee by the Tribunal.

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20. The main objects of the assessee have been extracted by us in paragraph 4 supra and these objects would guide us as to the classification of the activity engaged in by the assessee. We are to decide on whether the activity would fall under preservation of environment or general public utility under Section 2(15) which reads as follows:-

"charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility:

***Provided** that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—*

such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;"

21. There is no dispute on the position that the purpose served by the assessee is solely to enable the installation, commissioning and upgradation of effluent treatment plants. In our view, this has a direct nexus with the preservation of environment and we thus concur with the Tribunal that the activity of the assessee would fall under this category



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only.

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22. The DIT has rejected this ground being of the view that the benefit is obtained only by the leather units whose effluents are treated. This approach is misconceived. While it is true that the ETPs treat the effluents generated by the individual leather units, the ETPs subserve a larger public interest, and the preservation of environment is a direct consequence.

23. In *Ahmedabad Urban Development Authority* (supra), the Supreme Court was dealing with the claim of exemption on the ground of general public utility. It hence became necessary to discern the nature of activities performed by those assesseees and determine whether the activities were commercial. There is no such need in this case as the activities of the assessee, as we have held above, fall singularly within the realm of protection of environment only.

24. In addition, we have perused the audited financials produced and find that there are no other receipts, barring interest from FDRs, surplus from the grants invested by the assessee, and minor earnings from rent and other miscellaneous receipts.

25. In light of the aforesaid detailed discussion, the question as to whether the Tribunal was right in holding that the assesseees is entitled for registration under Section 12AA is answered in favour of the assessee and



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adverse to the Revenue, and this Tax Case (Appeal) stands dismissed. No costs.

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[A.S.M, J.] [M.S.K, J.]
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Index: Yes

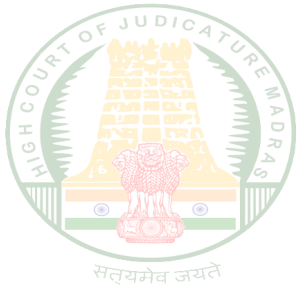
Neutral Citation: Yes

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To

1. The Commissioner of Income Tax,
Chennai.

2. The Income Tax Appellate Tribunal, Madras 'B' Bench,
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