

WEB COPY

T.C.A.No.916 of 2013

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.916 of 2013

Commissioner of Income Tax,
Chennai.

.. Appellant

VS

Karandhai Tamil Sangam,
1922, Seshaiya Sasthriyar Rd,
Karuthattangudi,
Thanjavur.

.. 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 09.08.2011 in ITA No.960/Mds/2011 for assessment year
2010 – 11.

For Appellant : Mr.J.Narayanasamy
Senior Standing Counsel

For Respondent : Mr.N.V.Balaji



WEB COPY



T.C.A.No.916 of 2013

JUDGMENT

(Delivered by Dr. ANITA SUMANTH, J.)

The assessee is the Karandhai Tamil Sangam (assessee). It was formed on 14.5.1911 and registered as a society on 1.5.1914. The main objects are (i) to advance and improve the cause and conditions of Tamil and Tamilians, (ii) to promote friendly and social intercourse among the members, (iii) to maintain charitable institutions for Tamilians to afford facilities for physical, moral, social and educational improvement of its members and (iv) to help the industrial and economic advancement of Tamilians.

2. An application was filed by the assessee on 20.10.2010 seeking exemption under Section 12AA of the Income-Tax Act, 1961 (Act). The application was rejected on 29.04.2011 by the Commissioner of Income-Tax (CIT), Trichirappalli, on multiple grounds.

3. Firstly, the CIT was of the view that the objects and activities were not genuine. For this purpose, he makes reference to certain complaints that had been received qua functioning of the trust, particularly in regard to the alleged receipt of capitation fee from the students.

4. Secondly, he notes that no returns of income had been filed by



T.C.A.No.916 of 2013

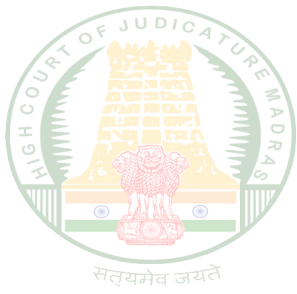
the assessee for any year at that point in time, even though the financials revealed receipts above the threshold limit for exemption from tax. In fact, a notice had been issued calling upon the assessee to submit returns for six preceding years, despite which no returns had been filed. For the aforesaid among other grounds, the application of the assessee came to be rejected.

5. The aforesaid order was reversed by the Income tax Appellant Tribunal (ITAT/Tribunal) on 09.08.2011. Not content with granting the assessee registration under Section 12AA, the Tribunal grants such registration retrospectively. There is no discussion in regard to basis on which the retrospective registration has been granted.

6. We are not dwelling on the grant of exemption itself, as the substantial question of law raised only assails the retrospective grant of registration. Mr.Narayanaswamy, learned Senior Standing Counsel confirms that the ambit of challenge extends solely to the aspect of retrospectivity and not the grant of registration itself. The questions admitted on 10.04.2014 read as follows:-

1. Whether on the facts and in the circumstances of the case the Tribunal was right in dismissing the miscellaneous application filed by the Revenue as not maintainable?

2. Whether on the facts and in the circumstances of the case the Tribunal was right in directing to



WEB COPY



T.C.A.No.916 of 2013

grant retrospective registration to the assessee under Section 12AA of the Income Tax Act, 1961 without taking cognizance of the amended provisions of Section 12AA as per which registration can be granted only with effect from the financial year in which the application for registration was submitted?

7. Mr.Narayanasamy points out that the grant of retrospective registration has no statutory basis whatsoever, drawing attention to Section 12A(2) of the Act and placing reliance on the decision of the Allahabad High Court in *Commissioner of Income-Tax (Exemptions) v Shiv Kumar Sumitra Devi Smmarak Shikshan Sansthan*¹.

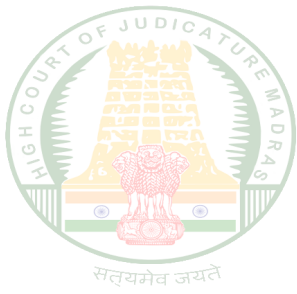
8. Per contra, Mr.Balaji, who appears for the assessee / respondent argues that there is no statutory provision that bars the grant of registration retrospectively. According to him, reliance upon Section 12A(2), by the Revenue is misplaced.

9. We have heard both learned counsel and perused the materials on record.

10. Registration under Section 12A is one of the pre-requisites for the grant of exemption under Section 11 of the Act. On, and with effect from 01.06.2007, sub-section (2) stood inserted in Section 12A, the provision reading as under:-

12 A. Conditions for applicability of sections 11 and

¹ 422 ITR 468



WEB COPY



T.C.A.No.916 of 2013

12:

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of Sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

11. Simultaneous therewith, there was an amendment to Section 12AA(1) dealing with the procedure for registration as per which all applications made under Section 12A(1)(aa) of the Act would be considered under Section 12AA for the grant of registration.

12. Thus, Section 12A(2), states that where an application for registration of a trust or instruction had been made on or after 01.06.2007, the provisions of Sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which the application had been made. With the amendment to Section 12AA, applications made under Section 12A(1)(aa) would be considered by the Principal Commissioner or Commissioner in terms of the procedure set out under Section 12AA of the Act.

13. A seamless procedure was thus put in place for the consideration of applications seeking registration for eligibility for exemption and with the insertion of Section 12A(2) and amendment to



T.C.A.No.916 of 2013

Section 12AA(1), the question of retrospective grant of registration stood effaced from the Act.

WEB COPY

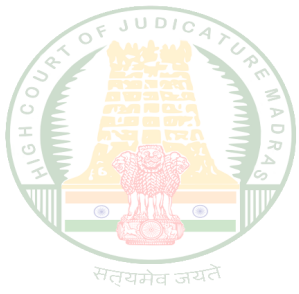
14. Prior to 1.6.2007, there were instances when registration was granted retrospectively from the date of creation/formulation of the entity seeking registration, or from any subsequent date at the discretion of the Commissioner of Income tax. With the insertion of sub-section (2) to Section 12A on 01.06.2007, there was no further avenue for such grant.

15. Mr.Balaji points out that Section 12A(2) only refers to Sections 11 and 12 and not specifically, 12A and, hence, applications for registration under Section 12A stand outside the ambit of the amendment. This argument is misconceived as it is a pre-requisite for an assessee seeking exemption under Section 11 to possess registration under Section 12A, and, there is in fact, no other purpose for which registration under Section 12A would be sought by an assessee.

16. The proviso to Section 12A(2) as it stood between 1.4.2021 and 1.6.2020 reads as follows:-

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of Sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

Provided that where registration has been granted to the trust or institution under section



WEB COPY



T.C.A.No.916 of 2013

12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held trust of any assessment year preceding the aforesaid assessment year; for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year;

18. Mr.Balaji seeks to obtain some benefit from the above proviso but we are unable to see how this would help him. The only situation where the registration may be granted retrospectively is if there were a pending assessment for any assessment year which is not the factual matrix in the present case. In any event, the above discussion is academic as the above proviso has itself been substituted with effect from 01.04.2020.

19. The mere fact that there is no specific bar under Section 12AA for grant of retrospective registration would not mean that the registering authority is enabled to so grant such registration especially if the law forbade it. The bar is inherent and explicit in the statutory scheme, and Section 12A(2) inserted simultaneous with the amendment to Section 12AA(1), must be read together.

20. In this case, the application for registration has been filed in 2010 and hence the grant can only be prospective. The Tribunal has, in



T.C.A.No.916 of 2013

granting retrospective registration, not taken note of the law in this regard

and we thus set aside the order of the Tribunal dated 09.08.2011, to this

extent. The question of law is answered in favour of the Revenue and this

appeal is allowed. No costs.

[A.S.M, J.] [M.S.K, J.]
21.01.2026

Index:Yes

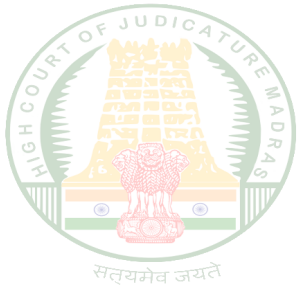
Neutral Citation:Yes

ssm

To

1.The Commissioner of Income Tax,
Chennai.

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



WEB COPY



T.C.A.No.916 of 2013

DR. ANITA SUMANTH,J.
and
MUMMINENI SUDHEER KUMAR,J.

ssm

T.C.A.No.916 of 2013

21.01.2026