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Chief Justice's Court

Case :- INCOME TAX APPEAL No. - 6 of 2014

Appellant :- Nehru Prasutika Aspatal Samiti
Respondent :- Commissioner Of Income Tax
Counsel for Appellant :- Shakeel Ahmad
Counsel for Respondent :- C.S.C.

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud,Chief Justice
Hon'ble Dilip Gupta,J.

The appeal by the assessee under Section 260-A of the Income Tax Act, 1961 is from a judgement of the Income Tax Appellate Tribunal dated 14 August 2013.

2. The assessment year to which the appeal relates is A.Y. 2009-10.

3. The following substantial question of law has been formulated:

> "Whether upon the facts and circumstances of the case, the Hon'ble Tribunal was justified in holding that the appellant's maternity hospital facilitating the deliveries is a natural process of god and cannot said to be any illness to be treated in appellant's hospital as envisaged under section 10(23C) (iiiae) of the Act."

4. The appeal is admitted on the aforesaid question and is taken for final disposal.

5. The Assessing Officer completed the assessment by an order dated 29 August 2011 under Section 143(3) of the Income Tax Act, 1961. The Assessing Officer assessed the total taxable income of the assessee at Rs.11,32,800. The assessee conducts a Maternity Hospital at Aligarh. An appeal was filed by the assessee before the CIT (A) claiming the benefit of exemption under Section 10(23C)(iiiae). The CIT (A) rejected the

claim with the following observation:

> "I hold that very reading of provision of Section 10(23C)(iiiae) do not match with the appellant's activity. The appellant hospital is a general hospital pertaining to maternity, while hospital/institution, as envisaged in section 10(23C)(iiiae) is in respect of mental diseases or illness rehabilitation and also to exist solely for philanthropic purposes. The appellant hospital has not proved any of these ingredients/requirements being fulfilled in its case."

6. Before the Tribunal, there was an appeal by the revenue and a cross objection by the assessee. The cross objection by the assessee was in regard to the denial of the claim for exemption under Section 10(23C)(iiiae).

7. The Tribunal held that that the appellant was not entitled to the benefit of the provisions of 10(23C)(iiiae). The reasons which weighed with the Tribunal are as follows:

> "It is worthwhile pointing out that the child birth is the natural process of God and it is certainly the God's grace which is extended to sustain us through it. It is the act of God who designs a child conceived in the womb to be born into this world. In olden days deliveries of children were perfectly conducted by midwives at home, but in the modern age, it is only because the anxiety of people that they would not be able to manage the discomfort or pains during labor, they choose to take better facilities in the hospitals in presence of Doctors for this purpose. Thus, it may be said that the assessee's maternity hospital in the instant case would have been facilitating the deliveries, i.e. a natural process of God. It, therefore, can in no way be said to be any illness to be treated in the assessee's hospital as envisaged u/s. 10(23C)(iiiae). Therefore,

the ingredients of section 10(23C)(iiiae) being not fulfilled, the ld. CIT(A) has rightly disallowed the claim of assessee."

8. The correctness of the view of the Tribunal falls for consideration.

9. Section 10 provides for those incomes which shall not be included in computing the total income of a previous year of any person. Clause (23C) relates to incomes which are received by any person on behalf of those categories which fall in any of the succeeding sub clauses.

10. Sub clause (iiiae) is as follows:

> "any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; "

11. In order to fall within sub clause (iiiae), the income must be received by any person on behalf of any hospital or other institution which exists solely for philanthropic purposes and not for the purpose of profit. Moreover, the aggregate annual receipts of such hospital or institution must not exceed the amount as may be prescribed. Both these conditions govern the entirety of sub clause (iiiae). But in addition to these two requirements, the hospital or institution must meet the description which is contained in the sub clause. Sub clause (iiiae) deals with hospitals or other institutions of the following nature:

(i) those for the reception and treatment of persons suffering from illness or mental defectiveness; or

(ii) for the reception and treatment of persons during convalescence; or

(iii) for the reception and treatment of persons requiring medical attention or rehabilitation.

12. There is no basis or justification to hold, as the CIT (A) held in this case, that clause (iiiae) is to be confined to hospitals or institutions dealing with mental diseases or illness rehabilitation. Even if the clause is read as a whole, it is clear that the reception and treatment of persons suffering from illness or mental defectiveness is one category which is covered by clause (iiiae). The sub clause thereafter specifically refers to reception and treatment of persons during convalescence; or of persons requiring medical attention or rehabilitation. The expression 'medical attention' cannot be read to be confined to medical treatment of persons who are only suffering from an illness or a mental disability. If that was to be the intent of the legislature, the sub clause would have been framed differently by stipulating that the subsequent provisions for the reception and treatment of persons during convalescence, rehabilitation or in regard to providing medical attention would be of those who are suffering from an illness or mental disability. In other words, the prevalence of mental disability is not the governing requirement of the entirety of sub clause (iiiae). Similarly the expression 'illness' has not been statutorily defined for the purpose of sub clause and must receive its ordinary and natural meaning. A hospital which provides for maternity care will fulfill the description of a hospital for the reception and treatment of persons requiring medical attention. Sub clause (iiiae) must receive its plain and ordinary meaning.

13. The Tribunal has dealt at length with its own view of the process of child birth. The Tribunal regards child birth as an act of God and a natural process and has proceeded to refer to the fact that in the olden days, deliveries were performed by midwives at homes. According to the Tribunal it is only because of the anxiety of people in modern times to be relieved of discomfort or pain during labor, that patients choose hospitals. This, in our view, is not a correct assessment either of modern science or of statutory interpretation. It is a matter of common experience that a hospital providing for maternity care has to deal with emergencies and on occasion, such hospitals have to provide emergent care which is often necessary to save the lives of the mother and the child.

14. We, therefore, do not accept the view of the Tribunal that patients visit hospitals of this nature only with a view to relieve themselves of the discomfort of pain during labor. As modern science, technology and knowledge have advanced, there is a considerable reduction of maternal mortality due to availability of expert medical care.

15. In these circumstances, both the views of the CIT (A) and of the Tribunal are not sustainable with reference to the provisions of sub clause (iiiae) of clause (23C) of Section 10. However, as we have noted above, a hospital or institution to fall within the sub clause must exist solely for philanthropic purposes and not for the purpose of profit and the aggregate annual receipts of the hospital or institution must not exceed the amount as may be prescribed. Since these aspects have not been gone into either by the Assessing Officer, CIT(A) or by the Tribunal, we restore the proceeding back to the Assessing Officer for consideration afresh.

16. The substantial question of law is, accordingly, answering in the negative and in favour of the assessee. The appeal is, accordingly, disposed of. There shall be no order as to costs.

Order Date :- 6.1.2014 (Dr.D.Y.Chandrachud,C.J.)
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(Dilip Gupta,J.)