

**Cit Vs. Chandra Charitable Trust**

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**Court :** Guwahati

**Decided On :** Jul-31-2006

**Appeal No. :** ITR No. 234 of 1995 31 July, 2006

**Appellant :** Cit

**Respondent :** Chandra Charitable Trust

**Judgement :**

**R.S. Garg, J.**

Mrs. Mona Bhatt, learned counsel for the revenue and Mr. R.K. Patel, learned counsel for the assessee.

2. At the instance of the revenue, the Tribunal has referred the following questions for our opinion :

"1. Whether the Appellate Tribunal is right in law and on facts in holding that the assessee-trust is a religious trust entitled to the benefit of section it?

2. Whether, the Tribunal is right in law and on facts in holding that Jainism is not a religion, and if Jainism is not a religion, the bar contained under section 13(l)(b) would not apply in the present case?

3. Whether, the Appellate Tribunal is right in law and on facts of the case in holding that the fresh assessment made by the Income Tax Officer pursuant to the

order under section 263 made by the Commissioner of Income Tax is redundant?"

3. Learned counsel for the revenue submits that section 11 and section 12 of the Income Tax Act while provide certain exemption to Charitable Religious Trusts, section 13(b), contradiction to sections 11 and 12, denies exemption in particular situations. She submits that, according to section 13(1)(b), exemption would not be available in the case of a Trust for charitable purposes or a charitable institution created or established after the commencement of the Act, any income thereof if the Trust or Institution is created or established for the benefit of any particular religious community or caste. Referring to a Division Bench Judgment of this court in the matter of Shantagauri Ramniklal Trust v. CIT : [1999]239ITR528(Guj) , it is submitted that what are the requirements to be taken note of while deciding the question whether the Trust is a Religious Charitable Trust or not. Reliance is also placed on a Judgment of the Apex Court in the matter of Bal Patil v. Union of India : AIR 2005 SC3172 to contend that Jainism is not a simple philosophy or a life-style but in fact it is a religion itself. Referring to certain covenants of the Trust Deed, it was submitted that as the basic purpose of creation of the Trust was to promote the Jainism which is a religion or to help the caste/community which follows Jainism, and, if that be so, exemptions would not be available, but the case of the Respondent-Trust would be counted out of the exemption clause and would be included in exceptions.

4. Shri Patel, learned counsel for the respondent-assessee, on the other hand, placed reliance upon yet another Judgment of this court in the matter of CIT v. Barkate Saifiyah Society : [1995]213ITR492(Guj) and submitted that exclusion from exemption under section 13(1)(b) applies only to charitable trusts and charitable institutions and if the trust is charitable as well as religious in nature, the assessee would be entitled to exemption under section 11 of the Act.

5. The question, that what should be the principle adopted and whether Jainism is a life-style or a religion, would lose much of its importance in view of the judgment of this court in the matter of Barkate Sailyah Societys case (supra). If Jainism is accepted to be a religion and from the covenants of the Trust Deed it can be spelt out that not only to propagate Jainism or help and assist maintenance of the

Temple, Sadhus, Sadhvis, Shraviks and Shravaks, yet other goals are set in the Trust Deed, then the Trust would become a Charitable Trust, so also a Religious Trust or it can be addressed as a Charitable Religious Trust, and, if that be so, section 13(1)(b) would not be applicable. Once the basic question is answered against the interests of the revenue, then the other questions can conveniently be decided against the interests of the revenue. The reference stands disposed of accordingly. No costs.

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