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CHARITABLE EDUCATIONAL INSTITUTIONS ARE NOT EXEMPTED FROM PAYMENT OF ELECTRICITY DUTY UNDER THE MAHARASHTRA ELECTRICITY DUTY ACT, 2016

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Introduction

The Supreme Court in a recent judgment dated 07.01.2022 passed in CA No. 7319 of 2021: State of Maharashtra vs. Shri Vile Parle Kelvani Mandal & Ors. held that charitable educational institutions registered under the Societies Registration Act, 1860 and the Maharashtra Public Trusts Act, 1950 are not exempted from the levy/payment of electricity duty under the Maharashtra Electricity Duty Act, 2016 (2016 Act) post 01.09.2016. The issue arose from an appeal against the judgment and order dated 28.02.2019 (Impugned Judgment) passed by the High Court of Bombay in W.P. No.2961 of 2018.

Prior to the 2016 Act, any statutory university or institution run for the purpose of or in respect of education, research and training or registered charitable institutions in respect of schools or colleges imparting education or training in academic or technical subjects were specifically exempted from payment of electricity duty under the erstwhile Maharashtra Electricity Duty Act, 1958 (1958 Act).

However, as per Section 3(2) of the 2016 Act, the exemption from the levy of electricity duty on the consumption charges or energy consumed was only extended to schools/institutions owned or controlled by the following amongst other categories:

- (a) Central Government excluding public undertakings;
- (b) State Government excluding public undertakings; and
- (c) Local Bodies constituted under any law for the time being in force in the State.

In fact, only schools or colleges or institutions imparting education or training, student hostels (including government hostels), hospitals, nursing homes, dispensaries, clinics, public streets lighting, public water works, sewerage systems, public gardens including zoos, public museums owned/controlled and managed by the aforesaid state instrumentalities were sought to be exempted from payment of electricity duty.

Judgment of the Supreme Court

Since, the issue in the present case involved a dispute as to whether charitable institutions registered under the Societies Registration Act, 1860 and the Maharashtra Public Trusts Act, 1950 were exempted from payment of electricity duty under the 2016 Act, the Supreme Court deemed it appropriate to refer to the settled position of

law on how to interpret and/or consider the statutory provisions in a taxing statute and the exemptions therein.

In relation to the above, the Supreme Court while placing reliance on its earlier decisions in Commr. of Customs vs. Dilip Kumar & Co., (2018) 9 SCC 1, Essar Steel India Ltd. vs. State of Gujarat & Anr., (2017) 8 SCC 357, Star Industries vs. Commr. Of Customs (Imports) (2016) 2 SCC 362 and Godrej & Boyce Mfg. Co. Ltd. v Dy CIT (2017) 7 SCC 421 made certain key observations, which are as under:

- (a) The charging, computation and exemption provisions in a taxing statute at the threshold stage must be construed strictly; however, in case of ambiguity in case of a charging provision, the benefit must necessarily flow in favour of the assessee;
- (b) a strict interpretation to an exemption provision is to be accorded and one ought to go by clear, unambiguous wordings thereof; and
- (c) Furthermore, it was observed that an exemption notification/clause shall be construed liberally and would be given a purposive interpretation only if the person claiming an exemption has successfully proved that such person is qualified under the statute to be exempted.

Furthermore, while rejecting the arguments advanced by the Respondents, the Supreme Court upheld the intention and wisdom of the legislature in incorporating Section 3(2) of the 2016 Act and conspicuously and deliberately denying exemption from payment of electricity duty to certain categories of persons. While providing an illustration, the Supreme Court also justified the above insertion by observing that if the exemptions as were available under the 1958 Act were to be made automatically made applicable to the 2016 Act, it would lead to absurdity as all private hospitals, nursing homes, dispensaries and clinics, who are profit making entities shall also claim the exemption from levy of electricity duty.

In view of the foregoing, the Supreme Court on both law and fact set aside the Impugned Judgment passed by the Hon'ble Bombay High Court and held that charitable educational institutions registered under the Societies Registration Act, 1860 and the Maharashtra Public Trusts Act, 1950 are not exempt from levy/payment of electricity duty levied on the consumption charges or the energy consumed under the 2016 Act. Furthermore, the aforesaid denial of exemption was held to be also applicable in respect of the properties used by such charitable education institutions for the purpose of schools/colleges imparting education or training in academic or technical subjects.

Comments

The Supreme Court while reiterating the principles of interpretation that an exemption clause has to be construed strictly for the purpose of conferring an exemption rightly set aside the Impugned Judgment and refused to grant exemption from payment of electricity duty to registered charitable institutions under the Societies Registration Act, 1860 and the Maharashtra Public Trust Act, 1950. Furthermore, the Judgment appropriately considers the fact that charitable institutions running hospitals, schools, colleges etc., in the State of Maharashtra are profit making organisations.

While the Judgment of the Hon'ble Supreme Court only pertains to the registered charitable institutions in the State of Maharashtra, however, the same will definitely have a lasting impact in influencing legislation dealing with electricity duty and

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exemption thereof in other States as well to amend the category of person(s) eligible for being exempted from payment of electricity duty.

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