Supreme Court of India Radhasoami Satsang, Saomi . . . vs Commissioner Of Income Tax on 15 November, 1991 Equivalent citations: 1992 AIR 377, 1991 SCR Supl. (2) 312 Author: R Misra Bench: Misra, Rangnath (Cj) PETITIONER: RADHASOAMI SATSANG, SAOMI BAGH,AGRA

Vs.

RESPONDENT: COMMISSIONER OF INCOME TAX

DATE OF JUDGMENT15/11/1991

BENCH: MISRA, RANGNATH (CJ) BENCH: MISRA, RANGNATH (CJ) KULDIP SINGH (J)

CITATION: 1992 AIR 377 1991 SCR Supl. (2) 312 1992 SCC (1) 659 JT 1991 (4) 313 1991 SCALE (2)1199

ACT: Income Tax Act, 1961—Sections 11 and 12—Radhasoami Satsang Property–Income of–Whether entitled to exemption.

HEADNOTE: The then Satguru of the appellant-Creed was assessed for the assessment years 1937-38, 1938-39 for the first time. He was a retired Govt. servant. His pension as well as the income from the institution were assessed together. On appeal, the Assistant Commissioner of Income-tax confirmed the assessments made by the Income-tax Officer. The Income-tax Commissioner under reference made under section 66(2) of the Income-tax Act, 1922 held that the offerings made to the assessee-Satguru were offerings as held in trust and same were exempted under section 4(3)(1) of the Act. When an application under Section 35 of the Act was made for ratification, whether the offerings received by the assessee consisted of interest income, property income, and income derived from sale of books and photographs etc. to be excluded, the Commissioner directed deletion thereof. For the year 1939-40, though the Income-tax Officer did not allow exemption u/s.4(3)(1) of the Act, the Appellate Assistant Commissioner allowed exemption. Till 1963-64 the appellant was not taxed and its refund applications were accepted by the respondent-Revenue. For the assessment years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69, 1969-70, the assessee-appellant was as- sessed, treating it to be an association of persons, and held that the donations and contributions received volun- tarily had limited religious use. When the appellant-assesses appealed, the appellate authority upheld the assessments. 313 Against the orders of the Appellate authority the asses- see appealed before the Income-tax Tribunal. The Tribunal allowing the appeals of the assessee, held that the assessee was entitled to the exemption claimed under Section 11 of the Income-tax Act, 1961. On the question, referred to the High Court by the Tribunal, "Whether on the facts and in the circumstances of the case the Tribunal was justified in holding that the income derived by the Radha Swami Satsang, a religious institution, was entitled to exemption under Sections 11 and 12 of the Income Tax Act, 1961?", the High Court answered the question in favour of the Revenuerespondent, holding that the trust deed was revocable and the conditions for exemption under Sections 11 and 12 of the Act were not

satisfied. Allowing the appeals of the assessee, this Court, HELD: 1.01. Assessments are quasi judicial. Each assess- ment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have al- lowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year. [320H, 321 A-B] 1.02. No formal document is necessary to create a trust. The conditions which have to be satisfied to entitled one for exemption are: (a) the property from which the income is derived should be held under trust or legal obli- gation, (b) the property should be so held for charitable or religious purposes which enure for the benefit of the public. [317 E-G] 1.03. The property was given to the Satguru for the common purpose of furthering the objects of the Sat Guru. The property was therefore subject to a legal liability of being used for the religious or charitable purpose of the Satsang. [319 E, F] 1.04. The Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under Sections 11 and 12 of the Income Tax Act, 1961. [321 D] Patel Chhotahhai and Ors. v.Janan Chandra Bask and Ors., AIR 314 1935 Privy Council 97; Acharya Jagdish-Waranand Avadhuta & Ors. v. Commissioner of Police, Calcutta & Ant., [1983] 4 Sec 522, The Secretary of State for India in Council v. Radha Swami Sat Sang, 13 ITR 520; All India Spinners'Associ- ation v. Commissioner of Income Tax, Bombay, 12 ITR 482; TM.M. Sankaralinga Nadar & Bros. & Ors. v. Commissioner of Income-tax, Madras, 4 ITC 226; Hoystead & Ors. v. Commis- sioner of Taxation, 1926 A.C. 155 and Parashuram Pottery Works Co. Ltd. v. Income-tax Officer, Circle 1, Ward A Rajkot, 106 ITR 1 at p.10, referred to.

JUDGMENT: CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 10574-10583 of 1983. From the Judgment and Order dated 7.7.1980 of the Alla- habad High Court in I.T.R. No. 948 of 1975. V.Gourishanker, B.V. Desai, S.K. Aggarwal and Ms. Vinita Gharpade for the Appellants. S.C. Manchanda, B.B.Ahuja, Manoj Arora and Ms. A. Subha- shini (N.P.) for the Respondent. The Judgment of the Court was delivered by RANGANATH MISRA, CJ. Radhasoami Satsang, an assessee under the Income Tax Act in these appeals by special leave assails the decision of the Allahabad High Court on refer- ence under Section 256 of the Income tax Act. 1961. The following question had been referred by the Tribunal to the High Court: "Whether on the facts and in the circumstances of the case Tribunal is justified in holding that the income derived by the Radha Swami Satsang, a religious institution, is entitled to exemption under sections 11 and 12 of the income Tax Act, 1961'."'The ambit and purport of the question would not be properly appreciated unless the background is indicated. The assessee is the Radhasoami Satsang, Agra. This sect was founded by Swami Shiv Dayal Singh in 1861. The tenets of this faith, inter alia, accept the position that God is represented on earth by a human being who is called the Sant Satguru. The first of such gurus .was the thunder himself and he was popularly known as 'Soamiji Madharaj' The second Satguru (1889-1898) was Rai Bahadur

Salig Ram and he was known as 'Bazoor Maharaj'. The third sant Satguru was Pandit Brahma Shanker Misra (1898- 1907) and was widely known as 'Maharaj Sahib'. These three Satgurus have been regarded as the real exponents of the creed. Out of donations and offerings made to the Satgurus, large funds were built up and properties were acquired over the years. During the time of the third Satguru, in 1902, the members of the creed at a largely attended convention established a Central Council and the right, title and interest of all the properties - movable and immovable—which had by then been collected were vested in the Council under the directions of Maharaj Sahib. In June, 1904 the constitution and bye-laws of the Central Council of Radhasoami Satsang were drawn up in a formal way and a body by the name 'Radhasoami Satsang Trust' was set up. A trust deed was executed by some members of the Central Council in October, 1904.. A set of bye-laws were also framed. On the death of third Satguru which took place in Octo- ber 1907, the oread split into two and came to be known as Swami Bagh Sect and the Dayal Bagh Satsangis respectively. Disputes arose as to the management of the shrines and the administration of the properties which had vested in the trustees under the Trust Deed of 1904. The Dayal Bagh Sat- sangis claimed that all the properties were held in a trust for a public purpose of a charitable and religious nature and prayed for a decree by going to the Civil Court The litigation had started in the form of an application under section 3 of the Charitable and Religious Trusts Act, 1920 but was converted into a regular suit and eventually ended with the decision of the Privy Council in the case of Patel Chhotahhai and Ors. v. Jnan Chandra Basic and Ors., AIR 1935 Privy Council 97. The Judicial committee reversed the decision of the High Court and held that even if the trust came into existence it was difficult to hold that it was of a public, charitable or religious character as contemplated by the Charitable and Religious Trust Act, 1920. The question of assessing the income for the first time arose in the assessment year 1937-38. The Income Tax Officer relied upon the observations of the Privy Council and completed assessments for two years being 1937-38 and 1938-39 treating the then Satguru, Sri Madho Prasad Sinha as the assessee. He was a retired Assistant Accounts Officer and was earning a pension. His pension as also the income from the institution were tagged together for assessment. The Appellate Assistant Commissioner confirmed the assessments. Assessee then filed applications under section 66(2) of the Income-tax Act of 1922 for reference. The Commissioner took the view that the offerings though made to the Satgurus were not used for their personal benefit and held that even though no formal trust had been created by the donors in respect of offer- ings, the guru impressed the offerings with trust character at the time of receipt, and treated the offerings as held in trust. He was, therefore, of the view that such offerings were exempt under section 4(3)(1) of the Income-tax Act, 1922 and directed that the offerings be deleted from the assessment for the two years. He accordingly held that no reference under Section 66(2) was necessary to be made. an application under section 35 of the Act was later filed for ratification by pointing out that offerings received by the Satgurus consisted of interest income, property income, and income derived from sale of books and photographs etc. and the same should also

be excluded. On 8.12.1945 the Commis- sioner directed deletion thereof. For the year 1939-40, the income-tax Officer did not grant exemption under section 4(3)(1) of the Act but the appeal challenging the assessment was accepted by the Appel- late Assistant Commissioner in September, 1947 upholding the assessee's claim of exemption. Nothing substantial happened until the assessment year 1963-64. During this period refund applications of the Satsang were accepted by the department on the basis that the income was exempt and as tax had been deducted at source the same was refundable. For the first time claim for refund in the years 1964-65, 1965-66 and 1966-67 was not allowed and the assessee was treated as an association of persons and taxed; subsequentiy for the assessment years 1966-67, 1967-68 and 1968-69 and 196970 assessments were also com- pleted. The Income-tax Officer did not accept the assessee's claim of exemption and proceeded to hold that the donations and contributions had been received voluntarily and had been limited to religious use but there was no obligation to do so. The assessee appealed but the appellate authority upheld the assessments for the years referred to above. The asses- see then appealed to the Tribunal. The Tribunal examined the matter from various aspects and held: "So far as the Radhasoami sect is concerned its properties were held only for the further- ance of the object of the Satsang and this object was to propagate the religion known by the name of Radhasaomi. This was a purely religious purpose as held by the Privy Council and therefore the objects of the assessee are clearly religious objects." While the Tribunal did not accept that the words 'held under trust' merely meant a consideration of the factual position and that if the income had been applied for reli- gious purpose it was unnecessary to find out whether in law a trust had been created or not. But the Tribunal was of the opinion that the words legal obligation were much wider and the activities of the Satsang could be brought within the purview of that expression. It finally held that the assessee was entitled to the exemption claimed under s. 11. The High Court did not accept the conclusions of the Tribunal by heavily relying upon the revocability of the trust as clearly specified in the document and accepting the stand of the Revenue that exemption under s. 11 was subject to the provisions of ss.60 to 63 of the Act and on the finding that the trust was revocable it upheld liability, Section 11(1) of the Act, as far as relevant, provides: "Subject to the provisions of sections 60-63, the following income shall not be included in the total income of the previous year of the person in receipt of the income: (a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and Co) where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 25% of the income from such property;.." The conditions which have to be satisfied to entitle one for exemption, therefore, are: (a) the property from which the income is derived should be held under trust or other legal obligation. (b) the property should be so held for charitable or religious purposes which enure for the benefit of the public. It is well-settled that no formal document is necessary to create a trust. The reference itself accepts the position that the assessee is a religious institution. There has been

some amount of debate in the forums below as to whether Radha- soami Satsang is a religion. This Court in Acharya Jagdish- waranand ,Avadhuta & Ors. v. Commissioner of Police, Calcut- ta & Anr., [1983] 4 SCC 522 while examining the claim of Anand Marg is to be treated as a separate religion indicated: "The words 'religious denomination' in Article 25 of the Constitution must take their colour from the word 'religions' and this be so the expression religious denomina- tion must also satisfy three conditions: (i) it must be a collection of individu- als who have a system of beliefs of doctrines which they regard as conductive to their spiritual well-being, that is, a common faith, (ii) common organisation; and (iii) designation by a distinctive name." In that case Anand Marg was held to be a 'religious denomination' within the Hindu religion. It is not necessary for us to decide whether Radhasoami Satsang is a denomination of the Hindu religion or not as it is sufficient for our purposes that the institution has been held to be reli- gious and that aspect is no more in dispute in view of the frame of the question. The question of assessment to income-tax arose only following the decision of the Privy Council in the dispute between the two factions. The Judicial Committee found that the properties which were the subjectmatter of the suit were acquired with the moneys presented to the Sant Satguru in the form of bhents or other contributions by the followers of the Radhasoami faith. The Judicial Committee found that it was almost inconceivable that the followers of the faith when making their gifts to the Sant Satguru intended to create a trust within the meaning of the Act 14 of 1920 of which they, the donors and the worshippets, should be the beneficiaries. The Privy Council further also found that it could not be said that the donors of the gifts were the authors of the alleged public trust. The question was exam- ined keeping the provisions of the 1920 Act in view. The requirements of s. 11 of the Income Tax Act are considerably different from what the Judicial Committee of the Privy Council was required to consider. We have already pointed out that after 1907 the denomi- nation got divided. The claim of Dayalbagh group for exemp- tion under the IncomeTax Act came for consideration before the Allahabad High Court in the case of The Secretary of State for India in Council v. Radha Swami ,Sat Sang, 13 ITR 520. There it was found that the offerings made by the Dayalbagh Satsangis to Sahebji Maharaj and the property which had grown out of them and which admittedly stood in the name of the Sabha and the property which at all material times had stood in the name of the Sabha vested in the Sabha for the benefit of the Satsangis and Sahebji Maharaj had no beneficial or personal interest in that. What has been found for the Dayalbagh Satsangis on this score is fully applica- ble so far as the assessee is concerned, There is no dispute that the properties of the assessee are also recorded in the name of the Sabha (Central Council) and there is no personal interest claimed by the Sant Satguru in such property. Ever the years the Satguru has never claimed any title over, or beneficial interest in, the properties and they have always been utilized for the purpose of the religious community. The test applied by the Privy council in the case of A 11 India Spinners' Association v. Commissioner of Income - Tax. Bombay 12 ITR 482 is indeed applica- ble to the facts of the present case and the result would then be in favour of the assessee. We

would like to point out that even if the trust was revocable, the property was not to go back to the Satguru on revocation. The constitu- tion and the bye-laws on record indicate in clause 1(b): "1. The constitutional powers of the Central Council Radhasoami Satsang ..... are as below: (b) to collect, preserve and administer the properties movable and immovable that have been or may hereafter be dedicated to Radha- soami Dayal or that may be acquired for or presented to the Radhasoami Satsang for the furtherance of the objects of the Satsang." This envisages that where the property was given to the Sant Satguru, it was intended for the common purpose of further- ing the objects of the Sant Satguru and the Central Council had the authority to manage the property. Clause 9 of the document stipulated that the properties would vest in the trust and clause 25 provided that the trust shall be revoca- ble at the discretion of the Council and the trustees shall hold office at its pleasure. Upon revocation the property was not to go back to the Satguru and at the most. in place of the trust, the Central Council would exercise authority. It is on record that there has been no Satguru long before the period of assessment under consideration. As a fact, therefore, the Tribunal was justified in holding that the property was subject to a legal liability of being used for the religious or charitable purpose of the Satsang. This aspect had not been properly high-lighted before the High Court. One of the contentions which the learned senior counsel for the assessee-appellant raised at the hearing was that in the absence of any change in the circumstances, the Revenue should have felt bound by the previous decisions and no attempt should have been made to reopen the ques-tion. He relied upon some authorities in support of his stand. A full Bench of the Madras High Court considered this question in T.M.M Sankaralinga Nadar & Bros. & Ors, v. Commissioner of Income-Tax, Madras, 4 ITC 226. After dealing with the con- cession the Full Bench expressed the following opinion: "The principle to be deducted from these two cases is that where the question relating to assessment does not vary with the income every year but depends on the nature of the property or any other question on which the rights of the parties to be taxed are based, e.g., whether a certain property is trust property or not, it has nothing to do with the fluctua- tions in the income; such ques-tions if decided by a Court on a reference made to it would be res judicata in that the same question cannot be subsequentiy agitated." One of the decisions referred to by the Full Bench was the case of Hoystead &Ors. v. Commissioner of Taxation 1926 AC 155. Speaking for the Judicial Committee Lord Shaw stat- ed: "Parties are not permitted to begin fresh litigations because of new views they may entertain of the law of the case, or new versions which they present as to what should be proper apprehension by the Court of the legal re-sult either of the construction of the document or the weight of certain circum-stances. If this were permitted litigation would have no end, except when legal ingenuity is exhausted. It is a principal of law that this cannot be permitted, and there is abun- dant authority reiterating that principle. Thirdly, the same principle - namely, that of setting to rest rights of litigants, applies to the case where a point, fundamental to the decision, taken or assumed by the plaintiff and traversable by the defendant, has not been traversed. In that case also

a defendant is bound by the judgment, although it may be true enough that subsequent light or ingenuity might suggest some traverse which had not been taken." These observation were made in a case where taxation was in issue. This Court in Parashuram Pottery Works Co. Ltd. v. Income-Tax Officer, Circle 1, Ward A, Rajkot, 106 ITR 1 at p. 10 stated: "At the same time, we have to bear in mind that the policy of law is that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversite as it must in other spheres of human activity." Assessments are certainly quasi-judicial and these observations equally apply. We are aware of the fact that strictly speaking resjudi- cata does not apply to income-tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year. On these reasonings in the absence of any material change justifying the Revenue to take a different view of the matter- and if there was not change it was in support of the assessee- we do not think the question should have been reopened and contrary to what had been decided by the Com- missioner of Income-Tax in the earlier proceedings, a different and contradictory stand should have been taken. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirma- tive, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was enti- tled to exemption under ss. 11 and 12 of the Income Tax Act of 1961. Counsel for the Revenue had told us that the facts of this case being very special nothinng should be said in a manner which would have general application. We are inclined to accept this submission and would like to state in clear terms that the decision is confined to the facts of the case and may not be treated as an authority on aspects which have been decided for general application. We direct the parties to bear their respective costs. V.P.R. Appeals allowed.