THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

I.T.T.A.No.393 of 2016

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

This appeal by the Revenue under Section 260A of the Income-tax Act, 1961 (for short 'the Act of 1961'), seeks to raise the following substantial questions of law:

(i) "Whether, in the facts and circumstances of the case, the ITAT is right in allowing alternative claim of the assessee, for exemption u/s. 11 of the act of 1961, when the assessee-society itself has claimed for exemption u/s. 10(23C) (iv) of the Act of 1961 in the return of income?

(ii) Whether in the facts, the ITAT is right in holding that assessee is eligible for exemption of income u/s. 11 of the Act of 1961, even though the assessee has not obtained necessary approval from the prescribed authority u/s. 10(23C)(iv) of the Act of 1961 for the assessment year 2005-06?"

It is however stated before us that this issue is no longer *res integra*. In I.T.T.A.No.635 of 2015, this Court considered the very same question of law and by judgment dated 13.07.2016, held that Sections 11 and 12AA, on the one hand, and Section 10(23C), on the other hand operate in distinct and separate fields though the criteria prescribed thereunder may overlap to a certain extent. Therefore, approval under Section 10(23C) of the Act of 1961 cannot be considered to be a prerequisite for granting exemption under Section 11 of the Act of 1961.

The appeal is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

ANIS, J

Date:20.10.2016

GJ