ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.315 OF 2015

Commissioner of Income Tax-II,
Thane ...Appellant
vs.
Mr.Jawaharlal Nehru Port Trust ...Respondent

Mr.Suresh Kumar for the appellant
Mr.Sameer Dalal i/b Mr.Sudhakar G. Lakhani for the respondent

CORAM : A.S.OKA, &
A.K.MENON,JJ.
DATE : NOVEMBER 7, 2017

P.C.:

1 Heard the learned counsel appearing for the appellant. The Commissioner of the Income Tax passed an order directing cancellation of registration of the respondent under section 12A of the Income Tax Act,1961 with effect from assessment year 2008-2009. The order of cancellation was made on the basis of the proviso added to clause 15 of section 2 of the said Act with effect from 1st April 2009. The order of the Commissioner of Income Tax has been interfered with by the Income Tax Appellate Tribunal, Mumbai (for short “the Appellate Tribunal”). Interference was made on the ground that the registration which was granted under section 12A to the respondent cannot be cancelled on the basis of the subsequently added proviso to clause 15 of section 2 with effect from 1st April 2009.

2 Only question of law which is pressed by the appellant is on the basis of the contention that the proviso which was added with effect from 1st April 2009 will have retrospective effect being clarificatory in nature.

3 We have perused the said proviso. The said proviso is neither clarificatory nor declaratory in nature and therefore, it cannot have retrospective operation. Apart from that there is a circular issued being No.21 of 2016 dated 27th May 2016 by the Central Board of Direct Taxes clarifying that amendment to clause 15 of section 2 of the Income Tax Act will apply with effect from 1st April 2009.

4 Hence, no substantial question of law arises. There is no merit in the appeal and the same is dismissed with no order as to costs.

(A.K.MENON,J.) (A.S.OKA,J.)