IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL No. 975 of 2016

CIT (Exemptions) Mumbai ..Appellant.
Vs
Credit Guarantee Fund Trust for Micro & Small Enterprises ..Respondent.

Ms. Padma Divakar, Advocate for the Appellant.

Mr. Atul Jasani, Advocate for the Respondent.

CORAM : AKIL KURESHI &
B. P. COLABAWALLA, JJ.

DATED :- 8TH JANUARY, 2019.

P.C. :

1 The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal (**"the Tribunal"** for short) Following question of law is presented for our consideration:-

> Whether on the facts and in circumstances of the case and in law, the ITAT was right in cancelling the order under Section 263 of the Income Tax Act, 1961 merely on the ground that it has restored the Registration granted under Section 12A ignoring the fact that the decision to restore the Registration has not been accepted by the Revenue and a further appeal is pending before the Jurisdictional High Court vide Appeal No. ITXA/511/2015?

2 The record would show that the Commissioner in exercise of the powers under Section 12AA of the Income-tax Act, 1961 (**the "Act"** for short) had been cancelled. The Tribunal, however, allowed the Assessee's appeal on the ground that by a separate order had set aside the order of the Commissioner cancelling the registration. From the question framed by the Revenue itself, we gather that the Revenue's point of view is that such order of the Tribunal had not become final and was challenged before this Court and therefore the Tribunal should not have disturbed the revisional order of the Commissioner. The learned Counsel Shri Jassani for Assessee brought to our notice an order dated 2nd August, 2017 passed by this Court in Income Tax Appeal No. 599/2015 by which the Revenue's appeal against the judgment of the Tribunal restoring the registration of the trust came to be dismissed.

3 In view of such facts, we find no error in the impugned judgment of the Tribunal. No question of law arises. Tax Appeal is dismissed.

(B.P. COLABAWALLA, J.) **(AKIL KURESHI, J)**