R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 926 OF 2016

CIT (Exemptions) .. Appellant

Versus

Setco Foundation .. Respondent

....

- Mr. Ashok Kotangle i/by Padma Divakar for the Appellant

....

CORAM : AKIL KURESHI &
M.S. SANKLECHA, JJ.

DATE : JANUARY 21, 2019.

P.C.:

1. This appeal under Section 260 A of the Income Tax Act, 1961 (Act), challenges the order dated 18.12.2014 passed by the Income Tax Appellate Tribunal (“**the Tribunal”** for short). This appeal relates to the Assessment Year 2013-14.

2. Revenue has urged following question of law for our consideration:-

> " Whether on the facts and in circumstances of the case, the Tribunal was right in law in overlooking the fact that in the absence of "Dissolution Clause" in the trust deed, the net assets of the trust on its dissolution would be transferred to any entity / distributed among the trustees thus defeating the very purpose of registration under

Section 12AA of the Act?"

3. Respondent - Trust was constituted under the Trust Deed dated 1.1.2009. It was duly registered with the Charity Commissioner on 12.3.2009. However, its application for registration under Section 12AA of the Act was rejected by an order dated 31.1.2013 of the Director of the Income Tax (Exemption) [DIT (E)] on the ground that the Trust Deed does not have any dissolution clause.

4. The impugned order of the Tribunal allowed the respondent's assessee's appeal by interalia holding that the absence of dissolution clause in the trust deed would not bar the registration of the Trust under Section 12AA of the Act. The issue to be considered for registration is the object of the Trust and genuineness of its activities. The impugned order also makes reference to Section 55 of the Bombay Public Trust Act 1950 which provides for the contingency of absence of dissolution clause in the trust deed.

5. Mr. Kotangale, the learned counsel for the Revenue very fairly states that the identical issue had arisen before this Court in Income Tax Appeal No. 247 of 2015 (CIT

[Exemptions]) Vs. Tara Educational & Charitable Trust. The said appeal was dismissed as not giving rise to any substantial question of law.

6. In the above view, for the reasons indicated in our order in Tara Educational & Charitable Trust (supra), the proposed question does not give rise to any substantial question of law. Thus, not entertained. The appeal is dismissed.

[M.S. SANKLECHA, J.] **[AKIL KURESHI, J]**