222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No.429 of 2017 (O&M)
Date of decision : 09.12.2019

The Commissioner of Income Tax (Exemptions),
Chandigarh.

...... Appellant

versus

Kundan Vidya Mandir Alumni Association,
Ludhiana

...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE LALIT BATRA

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Present :- Mr. Denesh Goyal, Advocate
for the appellant.

Ms. Radhika Suri, Sr. Advocate with
Mr. M.S.Kanda, Advocate
for the respondent.

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AJAY TEWARI, J. (Oral)

1. The present appeal has been filed under Section 260A of the Income Tax Act, 1961 (in short 'the Act'), against the order dated 22.02.2017, passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, in ITA No.582/(Asr.)/2016.

2. The claim of the respondent was that it was an alumni association of a school and was set up for charitable purposes and was therefore entitled to the exemption under Section 12AA. The Commissioner rejected the application. In appeal the assessee placed on record an order under Section 12 A(a) in respect of the main school which had been granted about 15 years ago. On the basis of this the Tribunal

sent back the case of the respondent to the Commissioner to re-consider the matter.

3. Counsel for the Revenue-appellant has argued that the order of the Commissioner was legal and the order under Section 12 A(a) passed in favour of the School would have no relevance.

4. On the other hand counsel for the respondent has argued that once the main school was recognized as a charitable institution an alumni association which was also not a profit organization would be entitled to exemption under Section 12AA.

5. In our opinion, the arguments of both counsel are too extreme. It cannot be said that the certification in favour of the school is entirely irrelevant nor can it be said that merely because the school got a certificate under Section 12A(a) the alumni association would also be entitled to exemption as of right.

6. In the circumstances, what the Tribunal has done cannot be said to be illegal. The Tribunal has not reversed any finding of the Commissioner but has merely asked the Commissioner to consider another document, the relevancy and importance of which would be determined by the Commissioner himself. Moreover, it is also not disputed that when the original application was filed by the respondent it was a fledgling organization. Today another 2-3 years have passed and therefore, the Commissioner would have the benefit of seeing the records of the respondent to verify whether it does indeed meet the test of Section 12AA or not. In sum and substance, therefore, we do not deem it appropriate to interfere with the order.

7. Consequently, the appeal is dismissed.

8. Since the main case has been dismissed, the pending Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(LALIT BATRA)
JUDGE

09.12.2019
pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No