119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No.23 of 2019 (O&M)
Date of decision : 26.08.2019

The Commissioner of Income Tax
(Exemptions), Chandigarh

...... Appellant

versus

M/s Gaushala Trust Society, Spatu Road,
Ambala City, Haryana

...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE HARNARESH SINGH GILL

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

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AJAY TEWARI, J. (Oral)

1. This appeal has been filed by the revenue against the order of the Income Tax Appellate Tribunal, Division Bench 'A', Chandigarh dated 11.07.2018 reversing that of the Commissioner, Income Tax, Chandigarh whereby the Commissioner had refused registration under Section 12 A of the Income Tax Act, 1961 (for short the Act) to the respondent-Gaushala.

2. The respondent admittedly runs a Gaushala where there are 540 odd cows. It had applied for registration under Section 12 A of the Act and the same was rejected by the Commissioner holding :-

(i) that the respondent did not have any property in its name.

(ii) that it had large FDRs.

(iii) that out of total revenue of Rs.1.36 crores for the year ending 31.03.2017 it had spent only Rs.1.44 lakhs on

providing medicines to the cows.

(iv)that it was selling milk which the cows in its possession were producing.

3. The respondent filed an appeal before the Tribunal which noticed that the respondent had claimed that only about 15% to 20% of the cows were yielding milk. The Tribunal further noticed that the Deputy Director, ICD Project Ambala City had certified that the amount of milk which was being produced by the respondent would be the yield of about 75 to 80 cows. The Tribunal noticed that earlier the respondent was functioning from its own premises but those premises were acquired by the Government and the compensation amount was put in a fixed deposit because the present premises which were occupied by the respondent were under litigation and therefore the respondent was justified in keeping this fixed deposit amount so that in case it had to vacate the present premises it could acquire some other suitable premises for itself. The Tribunal also noticed that the Commissioner had given a completely presumptuous finding that the objects of the respondent were to look after only sick and injured cows where as the object of the respondent was to maintain all the cows. The Tribunal noticed that the Commissioner inexplicably did not understand or could not understand that the society was maintaining and feeding and looking after 540 cows and therefore the finding that it was spending only a meager amount of its earning was wrong. The Tribunal also noticed that the finding of the Commissioner that since the respondent had no immovable property it could not claim benefit was wrong.

4. We are in agreement with the views of the Tribunal. Consequently, the appeal is dismissed.

5. Since the main case has been dismissed, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

26.08.2019
pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No