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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 708/2019**

THE COMMISSIONER OF INCOME TAX –EXEMPTION ..... Appellant
Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

versus

THE ROTARY MEGAPOLIS FOUNDATION ..... Respondent
Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

<u>O R D E R</u>
% **30.07.2019**

1. This is an appeal by the Revenue against the order dated 30th November, 2018 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 6768/Del/2015 and 4490/Del/2018 whereby the ITAT set aside the order passed by the Commissioner of Income Tax (Exemptions) ['CIT (E)'] declining registration under Section 12AA and approval under Section 80G of the Income Tax Act, 1961 ('Act').

2. The question that arose was whether the powers of the Trustees of the Respondent were such that the Trust could be utilized for attainment of the personal benefits of the Trustees, which could even be commercial in nature?

3. According to the CIT(E), the details furnished by the Respondent were not satisfactory for grant of registration and, therefore, its application seeking such registration under Section 12AA (a) of the Act and approval

for exemption under Section 80G of the Act, was rejected.

4. The Respondent then filed the aforementioned appeals before the ITAT. The ITAT has discussed the clauses of the Trust Deed in sufficient detail. It noted that the Trust had been established for rehabilitation of slum and street children; to set up orphanages and old-age homes; for providing education for weaker sections of the society; rehabilitate handicapped persons and grant scholarships to deserving students. The ITAT then examined the powers conferred on the Board of Trustees in light of the Trust's main objects. The ITAT was of the view that the "inescapable conclusion" was that the Trust had been created for a just and charitable purpose. The ITAT noted that the Respondent had brought on record the details of its activities and the same has also been placed before the CIT (E). It had hired five rooms in the slum and JJ area and engaged five teachers to teach the children of weaker sections. It had placed before the CIT (E) its updated bank statement, provisional accounts, as on 10th September, 2015 and original vouchers related to expenses on charitable activities. A complete list of donors was also placed on record.

5. The ITAT noted that the CIT (E) had not concluded that the Trust activities were not genuine. The ITAT held that declining registration under Section 12AA and approval under Section 80G of the Act merely on the ground that the Board of Trustees had wide powers, was not proper. The ITAT, therefore, set aside the order of the CIT (E) and directed the grant of registration to the Respondent under Section 12AA as well as approval under Section 80G of the Act.

6. Mr Ruchir Bhatia, learned Senior Standing Counsel for the Revenue, urged that even if the order of the CIT (E) was found unsustainable since it failed to discuss the merits of the application filed by the Respondent, the ITAT ought to have remanded the matter back to the CIT (E) for a fresh determination.

7. The Court finds that the ITAT has taken pains to examine the merits itself and since the facts spoke for themselves, there was no need to again send the matter back to the CIT (E) for a fresh determination.

8. The Court is therefore unable to find any legal infirmity in the impugned order of the ITAT. No substantial question of law arises therefrom.

9. The appeal is accordingly dismissed. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 30, 2019
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