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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA No.603/2019

THE COMMISSIONER OF INCOME TAX – EXEMPTION

..... Appellant

Through Mr.Ruchir Bhatia, Advocate.

versus

TATA COMMUNITY INITIATIVES TRUST

..... Respondent

Through None

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Date of Decision: 11th March, 2020.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present appeal has been filed under Section 260A of the Income Tax Act, 1961, challenging the order dated 29th January, 2019 passed by the Income Tax Appellate Tribunal (hereinafter referred to as ‘Tribunal’) in ITA No.4219/DEL/2015. The relevant portion of the impugned order is reproduced hereinbelow:-

“It is for the Assessing Officer to examine every year after considering the activities of the trust whether they fall within any of the above clauses of charitable activities. The CIT is not supposed to specify while registering the trust the activities which can or would be performed by the trust. In view of the above, we direct that the trust would be granted registration under Section 12AA of the Act without any qualification.”

2. Learned counsel for the appellant submits that the Tribunal erred in directing the Commissioner of Income Tax (Exemption) (hereinafter referred

to as the 'CIT(E)') to grant registration under Section 12AA of the Income Tax Act, 1961 (hereinafter referred to as 'Act') without examining the objects/activities of the trust at the entry level. He further submits that the Tribunal could not have replaced its own satisfaction with the satisfaction of CIT(E) as mandated in law and could not have granted registration without remanding the matter to CIT(E).

3. Having heard learned counsel for appellant, this Court is of the opinion that under Section 12AA of the Act, the CIT(E) can only register or refuse the registration of the trust and it cannot direct registration of the trust under a particular category as it had done in the present case i.e. General Public Utility Trust.

4. In our opinion, the Tribunal has not held that the CIT(E) should have granted registration to the respondent-Trust without examining its objects and activities. Only the conditions imposed and the categorisation of the trust have been struck down.

5. Further, in the present case, the Tribunal has not replaced the satisfaction of the CIT(E) with its own satisfaction.

6. Consequently, this Court is in agreement with the Tribunal that it was not open to the CIT(E) to categorise the trust under any particular category.

7. Accordingly, no substantial question of law arises for determination in the present proceedings and the present appeal being bereft of merits is dismissed.

MANMOHAN, J

SANJEEV NARULA, J

MARCH 11, 2020/KA