OD-1

ORDER SHEET
ITAT/54/2017
IA NO: GA/1/2017
(Old No:GA/595/2017)
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX (EXEMPTION), KOLKATA
VS
BADU RURAL WELFARE SOCIETY FOUNDATION

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
And
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 29TH November, 2021

Appearance:
Mr. Radhamohan Ray, Adv.
Mr. S. Lamba, Adv.
...For the Appellant

Mr. Tilak Mitra, Adv.
...For the Respondent

The Court : This appeal of the revenue filed under Section 260A of the Income Tax Act (the 'Act' in brevity) is directed against the order dated 30th September, 2016 passed by the Income Tax Appellate Tribunal, B-Bench, Kolkata (the 'Tribunal') in ITA No.94 & 95/Kol/2016.

The revenue has raised the following substantial question of law for consideration :

"a) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal, "B" Bench Kolkata erred in law in holding that for granting registration under Section 12AA(1) of the Income Tax Act, 1961 the powers of Commissioner of Income Tax are limited to "the aspect of examining that whether or not the objects of the trusts are charitable in nature" only without examining the genuineness of activities,

> *whereas by virtue of the provisions of Section 12AA(1) (a) of the Income Tax Act, 1961, the Commissioner of Income Tax shall satisfy himself about the genuineness of activities?"*

We have heard Mr. Radhamohan Ray, learned standing counsel for the appellant/ revenue and Mr. Tilak Mitra, learned counsel for the respondent/assessee.

The learned standing counsel appearing for the appellant/revenue has placed before us the communication addressed to him from the Income Tax Officer (Exemptions) Kolkata dated 12th November, 2021 stating that this appeal has been filed in an issue of denial of registration under Section 12AA(1) of the Act due to lack of activities on the part of the trustees. Referring to the decision of the Hon'ble Supreme Court in the case of Ananda Social & Educational Trust Vs. Commissioner of Income Tax (2020) 114 Taxmann.com 693 (SC), the Department seeks to withdraw this appeal. The said submission made by the learned standing counsel based on the communication dated 12th November, 2021 is placed on record and the appeal stands dismissed.

With the dismissal of the appeal, the stay application also stands dismissed.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Das/S.De