OD-18

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

IA NO: GA/2/2018
(Old No. GA/451/2018)
IN
ITAT/30/2018

THE COMMISIONER OF INCOME TAX (EXEMPTION), KOLKATA
VS.
GAAT FOUNDATION

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : December 17, 2021.

[Via Video Conference]

Appearance:
Mr. Soumen Bhattacharjee, Advocate
... for the appellant

Mr. Pranit Bag, Advocate
... for the respondent

The Court : This appeal by the revenue has been filed under Section 260A of the Income Tax Act, 1961 (the 'Act' in brevity) challenging the order dated 16th August, 2017 passed by the Income Tax Appellate Tribunal "A" Bench, Kolkata (Tribunal) in ITA 2194 and 2215/Kol/2016 for the assessment year 2015-16.

We have heard Mr. Soumen Bhattacharjee, learned standing counsel for the appellant and Mr. Pranit Bag, learned counsel appearing for the respondent/assessee.

The assessee applied for registration under Section 12AA of the Act before the Commissioner of Income Tax (Exemption) (CIT). The said application was rejected vide order dated 29th June, 2016. Challenging the same, the assessee preferred an appeal before the Tribunal. The Tribunal noted that the registration was denied solely on the ground that the assessee has received corpus donations as revenue donations for the earlier years and this cannot be a ground to reject the registration as it is a matter that could be examined by the assessing officer during the course of assessment. Furthermore, the Tribunal on facts held that the genuineness of the activities of the Trust were not doubted by the CIT. The settled legal principle with regard to the aspect to be examined by the CIT while considering an application for grant of registration under Section 12AA of the Act is to consider whether the objects of the Trust are charitable in nature and nextly as to whether the activities are genuine. If these two questions are answered in affirmative, the above registration cannot be denied. This aspect has been rightly examined by the Tribunal and relief has been granted. We find there is no question of law arising for consideration in this matter.

Hence, the appeal filed by the revenue is dismissed.

Consequently, connected application stands dismissed.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

RS/GH.