OD-16

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

ITA/370/2009
DIRECTOR OF INCOME TAX (EXEMPTION), KOLKATA
VS.
THARE MACHI EDUCATION

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 9th February, 2023

<u>Appearance</u> :
Mr. Prithu Dudhoria, Adv.
....for appellant

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order 27th March, 2009 passed by the Income Tax Appellate Tribunal, 'B' Bench, Kolkata (Tribunal) in ITA No.2099/Kol/2009 and ITA No.118/Kol/2009.

The appeal was admitted on 15th March, 2010 on the following substantial question of law :

"Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal erred in law in directing the Director of Income Tax (Exemption), to grant Registration to the Assessee Trust under section 12AA of the Income Tax Act, 1961 and also exemption certificate to the assessee under Section 80G(J) of the Income Tax Act, 1961 ?"

We have heard Mr. Prithu Dudhoria, learned standing counsel appearing for the appellant.

Upon going through the order passed by the learned Tribunal, we find that the Tribunal rightly took note of the settled legal position that the Director of Income tax (Exemption) while considering an application for grant of registration under Section 12AA of the Act is required to be considered whether or not the objects of a Trust are charitable in nature and merely because the Trust was at the commencement stage and has not commenced any charitable activity is no ground to reject the application at the threshold. Several decisions have been referred to by the learned Tribunal and thus we find that there is no error of law committed by the Tribunal for us to interfere.

In the result, the appeal is dismissed and the substantial question of law is answered against the revenue.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN.