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

ITAT/107/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
VS.
KALYAN EDUCATIONAL SOCIETY

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 15th May, 2024

Appearance :
Mr. Tilak Mitra, Adv.
Mr. Amit Sharma, Adv.
...for Appellant

Mr. J.P. Khaitan, Sr. Adv.
Mr. Saumya Kejriwal, Adv.
Ms. Ananya Rath, Adv.
Mr. Navin Mittal, Adv.
...for respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 23rd May, 2023 passed by the Income Tax Appellant Tribunal, "A" Bench, Kolkata (Tribunal) in ITA No. 106/Kol/2023 for the assessment year 2020-21.

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

> "Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in allowing the appeal of the respondent assessee by setting aside the order of the Learned CIT(A) and directing the Assessing Officer to allow exemption claimed under Section 11 of the Income Tax Act, 1961 by the respondent assessee by citing that the Hon'ble Apex Court has extended the period of limitation with respect to judicial or quasi-judicial proceedings due to Covid-19 pandemic whereas filing of ITR is not a judicial or quasi-judicial matter and the Ministry of Finance had already extended due date for filing the return of income for the Assessment Year 2020-21 considering Covid-19 pandemic vide its press release dated 30.12.2020 which was not availed by the respondent assessee ?"

We have heard Mr. Tilak Mitra, learned standing counsel appearing for the appellant and Mr. J.P. Khaitan, learned senior counsel for the respondent.

The short issue which falls for consideration is whether the Tribunal was right in holding that the return filed by the assessee was to be treated as within time. The factual matrix has been elaborately set out by the learned Tribunal, which need not be repeated for a decision in this appeal. All that is required to note is that the Central Board of Direct Taxes issued Circular F. No.173/193/2019-ITA-I, dated 23.4.2019. This pertains to Section 12A of the Act relating to charitable or religious trust – registration of – clarification with regard to time allowed for filing of return of income subsequent to insertion of Clause (ba) in Sub-section (1) of Section 12A. The Circular refers to various representations received on the subject while processing the income tax returns for the assessment year 2018-19 in respect of belated income tax returns filed under Section 139(4) of the Act. Ultimately, the Board directed that for a trust registered under Section 12AA of the Act to avail the benefit of exemption under Section 11 shall, inter alia, file its return of income within the time allowed under Section 139 of the Act. Accordingly, orders under Section 143(1)(a) in those cases in which demand has been raised on this issue was directed to be rectified. Apart from that, another Circular was issued by the Board being Circular No. 8 of 2021, dated 30.4.2021 and in clause (d) of the said Circular, filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Act for the assessment year 2020-21, which was required to be filed before 31st March, 2021 may be filed on or before 31st May, 2021.

The learned Tribunal rightly applied the Circulars and granted relief to the assessee and thus we find no questions of law, much less substantial question of law, arising for consideration in this appeal.

Therefore, the appeal fails and stands dismissed.

The stay application IA No: GA/2/2024 is also dismissed.

(T.S. SIVAGNANAM, C.J.)

(HIRANMAY BHATTACHARYYA, J.)

SN.
AR(CR)