214-4

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-3-2013 (O&M)
Date of Decision:12.08.2024

COMMISSIONER OF INCOME TAX-I, CHANDIGARH
........Appellant

V/s.

M/S CHANDIGARH GOLF CLUB, CHANDIGARH *........Respondent*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present Mr. Amanpreet (A.P.) Singh, Senior Standing counsel for the appellant/Income Tax Department.

Mr. Shantanu Bansal, Advocate, and
Mr. Yugank Goyal, Advocatesfor the respondent-Assessee.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. This Appeal is preferred by the appellant-revenue against the order dated 30.07.2012 passed by the Income Tax Appellate Tribunal, Chandigarh, Bench-A, Chandigarh (hereinafter referred to as “the ITAT”) whereby the appeal preferred by the revenue against the order of the CIT(Appeals) was dismissed.

2. The CIT(Appeals) has set aside the order passed by the Assessing Officer, for the assessment year 2008-2009, allowing the respondent-Assessee the benefit of exemption under Section 11 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) considering that the respondent-Assessee was granted registration under Section 12A of the Act since 2000. It was the contention of the Assessing Officer and the Revenue that the respondent-Assessee was not engaged in activities as laid down under Section 2(15) of the Act and it was alleged that the activities of the respondent-Assessee were of commercial and trading business.

3. The CIT(Appeals) did not accept the order of the Assessing Officer and held the respondent-Assessee to be entitled for benefit, moreso, as the respondent-Assessee was already granted registration under Section 12A of the Act since 2000 and was continuing to have same status.

4. The ITAT also did not accept the contentions of the Revenue and reached to a factual finding concurring with the order passed by the CIT(Appeals) and held that so far as the provisions under Section 2(15) of the Act are concerned, which require scrutiny, had become applicable w.e.f 01.04.2009 alone, therefore, they were not applicable to assessment proceedings relating to assessment year 2008-2009. In view thereof, the benefit of exemption under Sections 11 and 12 of the Act was extended.

5. Learned counsel for the appellant-revenue submits that both the CIT(Appeals) as well as the ITAT have erred in reaching to such conclusions as above. It is submitted that the activities, as defined under Section 2(15) of the Act, can also be taken recourse for the purpose of examining the activities of any Assessee prior to 01.04.2009 i.e. from the date the said provision was introduced.

6. Be that as it may, we find that such a provision, unless made retrospective specifically by the Legislature, cannot be presumed to be retrospective. In view of the above, the order passed by the Assessing Officer had rightly been set aside by the CIT(Appeals) and upheld by the ITAT.

7. We, therefore, having reached to the aforesaid conclusion and do not find any error worth warranting interference. No substantial question of law is not made out. Accordingly, the Appeal stands ***dismissed***.

8. All pending applications filed in this case shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[SANJAY VASHISTH]
JUDGE

August 12, 2024
Ess Kay

Whether speaking / reasoned	:	*Yes*	/	*No*
Whether Reportable	:	*Yes*	/	*No*