214-3

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-258-2016(O&M)
Date of Decision:12.08.2024

COMMISSIONER OF INCOME TAX (EXEMPTIONS), 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. Learned counsel for the appellant/revenue vehemently argued and submits that the Income Tax Appellate Tribunal, Division Bench, Chandigarh (hereinafter referred to as the "ITAT"), vide its order dated 02.11.2015 passed in an Appeal filed by the appellant, has erred in holding that the authority has no jurisdiction to cancel the registration granted under Section 12 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by invoking powers under Section 12-AA(3) of the Act.

2. In this case, the registration was granted to the respondent-Assessee under Section 12-A of the Act vide order dated 19.12.2000, while the Commissioner of Income Tax, Chandigarh, vide powers under Section 12AA(3) of the Act, which came into force w.e.f. 01.06.2010 and therefore, the said powers having been exercised retrospectively which could not have been done in view of the judgment dated 08.05.2024 passed by this Court in ***ITA-21-2011*** titled as ***The Commissioner of Income Tax, Patiala*** Vs. ***Young***

Scholar's Educational Society, Barnala whereby the similar issue as raised by the appellant/revenue stands finally adjudicated by this Court after relying on the judgments passed in the case of ***New Noble Educational Society*** vs ***Chief Commissioner of Income-Tax and another;*** *(2022) 448 ITR 594* and ***Pinegrove International Chairtable Trust*** vs ***Union of India and others*** *(2010) 327 ITR (P&H)* holding that the powers available to the authorities to cancel the registration granted under Section 12AA(3) of the Act was only prospective and could not be applied retrospectively. The relevant extract the order is reproduced as under:-

> *"15. XXXX XXXX*
>
> *16. While answering questions of law nos. 1, 3 and 4 (supra), we find that essentially the ITAT has held the order passed by the CIT cancelling the registration on 02.03.2010 to be without jurisdiction and without authority in law. It has stated so as the amendment was made in Section 12AA(3) of the Act by the Finance Act of 2010 empowering the Commissioner to cancel the registration granted under Section 12A of the Act where it reaches to a conclusion that the activities of the such trust are not genuine and not being carried out in accordance with the objects of the trust or institution. The power was, therefore, not available as on the day when the CIT cancelled the registration i.e. on 02.03.2010.*
>
> *17. XXXX XXXX*
>
> *18. Thus, we find that the facts were almost similar to the facts of the present case as in the aforesaid case Industrial Infrastructure Development Corporation (Gwalior) M.P.*

> *Limited's case (supra), the Commission had cancelled the registration under Section 12A of the Act dated 13.04.1991 by its order dated 29.04.2002 and on 29.04.2002 the Commissioner was not empowered to cancel such registration. In view thereof, the questions of law no. 1, 3 and 4 are answered in favour of the assessee on the basis of judgment in Commissioner of Income-Tax, Gwalior (supra)."*

3. In view of the above, we find that registration of the respondent-Assessee herein also could not have been cancelled retrospectively. Accordingly, the Appeal stands ***dismissed***.

4. 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*