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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 312/2022

PR. COMMISSIONER OF INCOME TAX
CIRCLE -3 .....Appellant

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

versus

M/S GIAN SAGAR EDUCATION AND CHARITABLE TRUST .....Respondent

Through: Mr. Ravi Pratap Mall, Ms. Renu Singh & Mr. Udit, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **04.07.2024**

1. The Principal Commissioner assails the order of the Income Tax Appellate Tribunal [“**Tribunal**”] dated 03 September 2020 and which had set aside the order of the Principal Commissioner of Income Tax [“**PCIT**”] cancelling the registration of the respondent Trust in terms of Sections 12A and 12AA of the Income Tax Act, 1961 [“**Act**”].

2. We note that the cancellation of registration was premised solely upon a purported violation of para 4(ii) of the Trust Deed and an asserted violation of Section 2(15) of the Act. The Tribunal has taken note of Para 4(ii) of the Trust Deed and which reads as under:

> “Trust shall not be involved in any activity which promotes violence, terrorism, fanaticism or political favouritism between the political party verses another. Trust’s objective is strictly humanitarian with no political agenda of any sort whatsoever”

3. It was in the aforesaid backdrop that the Tribunal held that the Trust could not have been said to be involved in any activity which promoted violence, terrorism, fanaticism or political favouritism.

4. It seems that the principal allegation against the Trust appears to have been the extension of bribes to certain officials of the Medical Council of India in order to sustain its affiliation as a medical institution. The Tribunal has additionally found that although there were various infractions which were committed by the Trust and had also led to the affiliation being doubted, bearing in mind the nature of activities which had been undertaken, it could not have been said that the Trust had acted contrary to the requirement of Section 2(15) of the Act.

5. It ultimately, and on an overall consideration of the facts which obtained, observed as follows:

> "**45.** Hence, keeping in view the entire facts of the case, that there have been deficiencies in the infrastructure as found by the first report which were found to have been rectified by the second committee comprising of Addl. Secretary, GoI Dean AIIMS, Addl. DG, DGHS, and keeping in view the fact that MCI has granted due permission for the academic session 2010-11, keeping in view the fact of non-sanction of prosecution of Sh. Ketan Desai, keeping in view the order of the Hon'ble High Court of Delhi, dropping the proceedings till sanction is received, keeping in view the submission of the revenue that no prosecution is pending against the assessee as on now, keeping in view the aims & objects of the trust are in consonance with the provisions of Section 2(15) of the Act , keeping in view that there has been no violation of clause (ii) para 4 of the trust deed as alleged by the Ld. PCIT, we hereby hold that the order of the Id. PCIT dated 27.10.2017 cancelling the registration since inception, u/s 12AA(3) of the Act is legally not valid. Before departing, we hereby clarify that,
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> 1) The order of the ld. PCIT cancelling the registration since inception is hereby revoked.
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> 2) The order has been passed in accordance with the provisions of the Income Tax Act, 1961 and shall not impact the outcome of any

> proceedings under any other Acts promulgated under Constitution of India.
>
> 3) The revenue shall be at liberty to approach the Tribunal for re-institution of the appeal on re-commencement of trial against Sh. Ketan Desai which has been since dropped."

6. In view of the aforesaid, we are of the considered opinion that no substantial question of law arises. The appeal consequently fails and shall stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 4, 2024/ kk