IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1334 OF 2014

The Commissioner of Income Tax-II,
Kolhapur .. Appellant.
v/s.
Institute Management Committee of
Industrial Training Institute, Kolhapur .. Respondent.

WITH
INCOME TAX APPEAL NO.1336 OF 2014

The Commissioner of Income Tax-III,
Pune .. Appellant.
v/s.
Institute Management Committee of
Industrial Training Institute, Satara .. Respondent.

Mr. Tejveer Singh, for the Appellant in both the Appeals.

CORAM: M.S.SANKLECHA, &
A.K.MENON, JJ.
DATE : 17th JANUARY, 2017.

P.C:-

These Appeals under Section 260-A of the Income Tax Act, 1961 (the Act), challenge the common order dated 19th September, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal).

2 The common impugned order dated 19th September, 2013 has allowed the three Appeals filed by three different institutions, setting aside the cancellation of its registration as a trust, by the Commissioner of Income Tax. The Revenue has filed two appeals from the common impugned order before us, which are being considered.

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3 The common identical question of law raised by the Revenue for our consideration, are as under:-

> " *Whether on the facts and the circumstances of the case and in law, the Tribunal is justified in setting aside the order of the CIT passed under Section 12AA(3) and restoring the registration granted to the assessee under Section 12AA of the Act?*

4 The Respondent-Institution were granted registration as a trust under Section 12AA(1) of the Income Tax Act, 1961 (the Act). The Commissioner of Income Tax, thereafter by an order passed under Section 12AAA (3) of the Act, withdrew/cancelled the registration granted earlier under Section 12AA(1) of the Act. This revocation/ cancellation of the registration was on the ground that the Respondent-Institutions do not satisfy the meaning of charitable purpose as given in Section 2(15) of the Act. The cancellation was on account of the fact that it provided vocational training and not education.

5 Being aggrieved, the Respondent-Institution carried the issue in Appeal to the Tribunal. The Tribunal by the impugned order held that power can be exercised under sub-section 3 of Section 12AA of the Act, only if one and/or both of the two following conditions, according to the Commissioner of Income Tax, are satisfied-

(i) The activities of the trust or institutions is not genuine; or

(ii) The activities of the trust or institutions is not being carried in accordance with the objects of the trust or the institutions.

6 The impugned order records that the Commissioner of Income Tax is silent with regard to satisfaction of the aforesaid two conditions so as to exercise power under Section 12-AA(3) of the Act to cancel the registration.

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7 In the above view, the impugned order of the Tribunal set aside the order passed by the Commissioner of Income Tax, canceling the registration under Section 12AA(1) of the Act. Consequently, also restoring the registration under Section 12AA of the Act, granted to the two institutions.

8 Nothing has been shown to us as to how the impugned order of the Tribunal is not in accordance with law. The exercise of power under Section 12AA(3) of the Act can only be done, if atleast one of the two conditions specified therein, are found to be satisfied by the Commissioner of Income Tax. This satisfaction of any of the two conditions, Revenue is not been able to show.

9 On plain reading of Section 12AA(3) of the Act, it is self evident that the power can only be exercised to cancel the registration only for the two breaches which are mentioned therein. This is not so in the present facts. Thus, no fault can be found with the impugned order setting aside the order of the Commissioner of Income Tax, cancelling the registration granted to the Respondent-Assessee.

10 In view of the above, the question as framed does not give rise to any substantial question of law.

11 Accordingly, both the **Appeals** are **dismissed.** No order as to costs.

(A.K.MENON,J.) **(M.S.SANKLECHA,J.)**

S.R.JOSHI