

Court No. - 1

Case :- INCOME TAX APPEAL No. - 117 of 2016

Appellant :- Commissioner Of Income Tax (Exemption) U.P State Cons.

Respondent :- M/S Shivbachan Singh Samajothan Charitable Trust Sonbhadra

Counsel for Appellant :- Alok Mathur

Hon'ble Amreshwar Pratap Sahi,J.

Hon'ble Anil Kumar Srivastava-II,J.

Heard Shri Alok Mathur, learned counsel for the appellant .

The contention raised is that the appellate order impugned herein fails to appreciate the fact that the assessee, apart from the sale deed had not been able to produce any document to substantiate the fact of the degree college being established for a charitable purpose.

The appellate authority while proceeding to consider this aspect has held as under.

"It is apparent that the CIT has given an incorrect finding. The assessee has duly submitted the evidence for the purchase of land for the establishment of degree college therefore, in our considered opinion, rejecting the genuineness of the activities merely on the basis that the assessee failed to submit the documents for the purchase of land for the establishment of degree college under section 12(1) (a), no doubt the CIT is empowered to call for such information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of the activities of the trust or may also make such inquiry as he may deem necessary in this behalf. In view of this provision, the CIT is empowered to look into whether the assessee trust is charitable or religious in nature. He has also to be satisfied about the genuineness of the activities of the assessee trust. For satisfying himself about the genuineness of the activities, he is empowered to call for such documents as he may deem fit. We noted that the CIT has not doubted the charitable activities carried on by the assessee. The only basis on which the registration was not granted to the assessee trust is that the CIT is not satisfied about the genuineness of the activities of the assessee. For giving this finding, the CIT only relied that the assessee has not submitted the documents for the purchase of land for the establishment of degree college but we noted from the documents available on record that the assessee has duly complied with the requirement as desired by CIT. The assessee has duly submitted the copy of registered sale deed for purchase of land for establishment of

degree college. Except this there is no objection being made by CIT about the genuineness of the activities of the assessee trust. Thus, in our opinion, the assessee fulfils both the conditions as has been stipulated under section 12 AA(1)(a) of the Act. We, therefore, set aside the order of CIT and direct him to allow registration to the assessee trust under section 12 AA (1) (b) of the Act within a period of 60 days from the date of receipt of this order. In case the CIT (Exemption) fails to grant registration to the assessee trust within the aforesaid period then it will be deemed as the registration has duly been granted to the assessee under section 12 AA(1) (b) of the Act. Thus the appeal relating to grant of registration under section 12 AA (a) (1) (b) is allowed."

We have considered the submissions raised.

Learned counsel for the appellant submits that as a matter of fact the material that was placed before the Commissioner Income tax was not sufficient enough to record a satisfaction with regard to the status of the activities of the assessee, and in such circumstances the matter ought to have been remanded back to the authority afresh.

We are unable to agree with the submissions inasmuch as the impugned order categorically records that except for the fact of non filing of documents no other objection had been raised by the Commissioner Income Tax about the genuineness of the activities of the assessee trust.

In such a situation, such a finding of fact having been recorded and without there being any element of perversity in the same or any other adverse material on record there is no reason to accept the argument of the learned counsel for the appellant as they do not raise any substantial question of law.

The appeal is accordingly rejected.

Order Date :- 16.11.2016
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