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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-211-2010 (O&M)**Date of decision: 04.02.2025****Shri Satya Sain Education Vocational Trust- Matroli (Karnal)****.... Appellant****Vs.****Commissioner of Income Tax, Karnal, Haryana and another****.... Respondents****CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Shantanu Bansal, Advocate, for the appellant.

Ms. Gauri Neo Rampal, Senior Standing counsel, with
Ms. V. Vedika Rao, Advocate,
for the respondent-Income Tax Department.**ARUN PALLI, J (Oral)**

The petitioner-Shri Satya Sain Education Trust, Matroli, Karnal (now known as Gandhi College of Pharmacy, Karnal) is in appeal under Section 260A of the Income Tax Act, 1961 ('the Act') against the order dated June 12, 2009 (A-4), passed by the Income Tax Appellate Tribunal, Delhi Bench, Delhi. The questions of law raised by the appellant read as thus:

- “i) Whether in the facts and circumstances of the case, the appellant institution is eligible for exemption under section 10 (23C) (iiiad) of the Act as it satisfies all the requirements of the section?
- ii) Whether in the facts and circumstances of the case, the impugned orders have erred in holding that merely because the appellant trust had not applied for registration under Section 12A of the Act, it was not eligible for exemption under Section 10 (23C) (iiiad) of the Act?
- iii) Whether in the facts and circumstances of the case, the finding in the impugned orders that the essential ingredients for the creation of a trust are not satisfied is completely wrong and against established law?
- iv) Whether in the facts and circumstances of the case, the impugned orders have erred in holding that the appellant exists for the purpose of profit and have ignored categorical evidence which



shows that the appellant institution exists solely for education purpose?”

Learned counsel for the appellant submits that, in essence, the matter in issue is with respect to the eligibility of the appellant-Trust to avail exemption under Section 10 (23C) (iiiad) of the Act as regards assessment year 2003-04. It is urged that the same issue as regards assessment year 2004-05 was decided by the Assessing Officer on 27.12.2006 in favour of the assessee. Whereupon, revisionary proceedings under Section 263 of the Act were initiated by the Commissioner of Income Tax (CIT). And, vide order dated 24.04.2008, the order passed by the Assessing Officer was revised and the matter was remitted for fresh consideration. Aggrieved by the said order the assessee approached the Income Tax Appellate Tribunal (Tribunal). Similarly, for, the issue with respect to the eligibility for exemption under Section 10 (23C) (iiiad) of the Act, qua assessment year 2003-2004, was decided against the appellant-assessee by the Assessing Officer as also the CIT appeals, a separate appeal against those orders was filed before the Tribunal. But vide a common order dated 12.06.2009, the Tribunal dismissed the said appeals. Whereafter, the appellant preferred two separate appeals i.e. ITA-211-2010 and ITA-210-2010. It is submitted that during the pendency of both the appeals, fresh proceedings in respect of assessment year 2004-05, pursuant to the order passed by the CIT dated 24.04.2008, were carried out. And the Assessing Officer, vide assessment order dated 06.08.2009 held that the appellant-society was not entitled to the exemption under Section 10 (23C) (iiiad) of the Act. Even the appeal preferred by the appellant-assessee to the CIT was dismissed on 19.03.2012. However, in ITA No.3476/Del/2012, the Tribunal upon examining the account books from the year 1999-2000, vide order dated 03.02.2017, concluded that the appellant-assessee was entitled to exemption under Section 10 (23C) (iiiad) of the Act and consequently allowed its claim. For the said order was not assailed any further by the revenue it has since attained finality. Resultantly, ITA-210-2010, for the year 2004-05 was disposed of by a co-ordinate Bench on 29.11.2023 as having been rendered infructuous.

Accordingly, learned counsel for the appellant submits that the issue as regards eligibility/entitlement of the appellant to avail exemption under Section 10 (23C) (iiiad) of the Act has been settled by Tribunal for the subsequent year the matter needs to be re-examined, even as regards the assessment year 2003-04.

The factual position, as indicated above, is not disputed by the learned counsel for the respondents. Rather, she, as always, fairly submits that in the given circumstances as also the order dated 03.02.2017, passed by the



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Tribunal, the Assessing Officer, shall have to re-examine the matter and pass orders afresh. Accordingly, it is submitted that the impugned order dated June 12, 2009, be set aside and the matter be remitted for fresh assessment.

In the wake of the position, sketched out above, and in terms of the statement made by learned counsel for the respondents, the impugned order dated June 12, 2009 (A-4) is set aside. The matter is remitted to the Assessing Officer (respondent No.2) to pass fresh order keeping in view the order dated 03.02.2017, passed by the Tribunal.

The appeal is disposed of in the above terms.

(ARUN PALLI)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

04.02.2025

deepak/Manoj Bhutani

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No