

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member

I.T.A. No.12/Kol/2022
Assessment Year: 2019-20

Swami Vivekananda Karma Tirtha..... Appellant
46, Camal West Road,
Ultadanga, Kolkata - 700004.
[PAN:AAWTS0391Q]

vs.

ITO, Ward-44(1), Kolkata..... Respondent

Appearances by:

Shri Manish Tiwari, FCA, appeared on behalf of the appellant.

Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 14, 2023

Date of pronouncing the order : March 14, 2023

आदेश / ORDER

The present appeal has been preferred by the assessee against the order dated 19.11.2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The sole issue involved in this appeal is whether the assessee is entitled to exemption u/s 11 r.w.s 12A of the Act in respect of assessment year, the assessment proceedings relating to which was pending before the Assessing Officer on the date of registration of the assessee u/s 12A of the Act and the objects and activities of such trust or institution remained the same for such preceding assessment year. In this case, the registration was granted to the assessee on 22.01.2020 for assessment year 2020-21. However, on the date of grant of

registration, the assessment proceedings relating to assessment year 2019-20 were pending before the Assessing Officer and it is not the case of the Revenue that the objects and activities of the assessee were different or to say there is no rebuttal to the plea of the assessee that the objects and activities of the assessee were the same for the preceding year i.e. 2019-20. The issue is squarely covered by Second Proviso after sub-section 2 of section 12A of the Act, which, for the sake of ready reference, is reproduced as under:

“Provided further that where registration has been granted to the trust or institution under section 12AA or section 12AB], then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year.”

3. In view of the above, the assessee is entitled to exemption u/s 12A of the Act for the assessment year under consideration. It is ordered accordingly. The impugned order of the CIT(A) is set aside and the Assessing Officer is directed to grant the admissible exemption to the assessee u/s 11 of the Act.

4. In the result, the appeal of the assessee stands allowed.

Kolkata, the 14th March, 2023.

Sd/-
[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 14.03.2023.

RS

Copy of the order forwarded to:

1. Swami Vivekananda Karma Tirtha
2. ITO, Ward-44(1), Kolkata
3. CIT
(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches