



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

% Decision Delivered on: 20th September, 2011

+ **ITA NO.1099/2011**

DIRECTOR OF INCOME TAX (EXEMPTION)Appellant
Through: Mr. Abhishek Maratha, Advocate

-versus-

COMMERCE TEACHERS ASSOCIATIONRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

1. Whether reporters of local papers may be allowed to see the Order?
2. To be referred to the Reporter or not?
3. Whether the Order should be reported in the Digest?

A.K. SIKRI, J. (ORAL)

1. The Respondent-Assessee is an Association of Commerce Teachers which is registered as a Society under the Societies Registration Act, 1860. The Assessee claimed itself to be a Welfare Society whose objects are of charitable nature. As per



the Memorandum of Association it has 54 objects. The Society applied for grant of registration under Section 12AA of the Income Tax Act, 1961.

2. The Director of Income Tax(Exemption) analysed the activities of the Assessee and was satisfied that the Assessee was deserved to be granted registration under Section 12AA of the Act. Accordingly, Order dated 28th September, 2010 was issued by the Director of Income Tax(Exemption) granting such a registration. However, certain conditions were imposed in the said registration. The Respondent-Assessee did not call in question any conditions except Condition No.11 which reads as under:

“The society should not charge any fee/amount from the beneficiaries. Also shall not collect any fees on account of talent exam.”

3. Challenging the imposition of the aforesaid condition as unwarranted the Respondent-Assessee preferred Appeal before the Income Tax Appellate Tribunal, which has been allowed by the learned Tribunal holding that there was no purpose to impose such a condition. It is *inter alia* recorded by the Tribunal



that there is no dispute that otherwise Respondent-Assessee fulfills all the relevant conditions for claim of registration under Section 12AA of the Act. Section 12AA of the Act nowhere provides that the Director of Income Tax(Exemption) would grant registration subject to imposition of stipulation as enumerated at Serial No.11 of the certificate.

4. Learned Counsel for the Appellant argues that this Court in the *Digember Jain Society for Child Welfare vs. Director General of Income Tax(Exemptions)*, (2010) 329 ITR 459, has categorically held that while granting the exemption the Director General is free to incorporate stipulations and conditions in terms of the third proviso. On this basis it is argued that the Tribunal is not right in holding that the registration cannot be subject to conditions.

5. After reading the Order of the Tribunal we are of the opinion that the Tribunal has nowhere said that conditions cannot be imposed at all. The only dispute was about the nature of Condition No.11 and entire observations of the Tribunal are qua that condition holding it to be unwarranted. We are in



agreement with the view taken by the Tribunal. No question of law arises. The Appeal is accordingly dismissed.

A.K. SIKRI, J.

SIDDHARTH MRIDUL, J.

SEPTEMBER 20, 2011

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