IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

ITA No.14 of 2014

Date of decision: 11.10.2018

Commissioner of Income Tax, Shimla .... Appellant.

Versus

HP State Environment Protection and Pollution Control Board

.... Respondent

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?[1] No.

For the Appellant : Mr. Vinay Kuthiala, Senior Advocate with Ms. Vandana Kuthiala, Advocate.

For the Respondent : Mr. Ajay Vaidya, Advocate.

Sanjay Karol, Judge (Oral)

The present appeal stands admitted on the following substantial questions of law:-

> "1 Whether the activities carried on by the assessee amount to charitable purposes as envisaged by Section 2(15) read with section 10 & 11 of the I.T. Act, 1961.
>
> 2. Whether the findings of the learned Tribunal are perverse since it has misconstrued the relevant provisions of the Act and the impugned order is thus liable to be set aside.

Whether reporters of Local Papers may be allowed to see the judgment?

> 3. Whether the Government Corporation performing regulatory functions is entitled to exemption under Sections 10 & 11 of the Income Tax Act even though it is not existing for charitable purposes."

2. After the matter was heard for sometime, learned counsel for the parties, fairly stated that the order dated 10.5.2012, passed by the Commissioner of Income Tax (Appeals), Shimla, in Appeal No.IT/448/11-12/Sml, filed by M/s H.P. State Environment Protection & Pollution Control Board (Annexure P-4) and order dated 16.4.2013, passed by Income Tax Appellate Tribunal Chandigarh Bench 'A', Chandigarh, in ITA No.835/Chd/2012, titled as *A.C.I.T. Shimla versus M/s HP State Environment Protection & Pollution Control Board* (Annexure P-A), need to be quashed and set aside and the matter remanded back to the Commissioner of Income Tax (Appeals), Shimla in view of order dated 24.10.2017, passed by this Court, in ITA No.2 of 2010, titled as *Commissioner of Income Tax versus HP State Environment Protection &*

Pollution Control Board, wherein the initial order, granting exemption in favour of the present respondent (M/s HP State Environment Protection & Pollution Control Board), was quashed and set aside and the matter remanded back for re-consideration.

3. In view of the joint submissions made by learned counsel for the parties, order dated 10.5.2012, passed by the Commissioner of Income Tax (Appeals), Shimla, in Appeal No.IT/448/11-12/Sml, filed by M/s H.P. State Environment Protection & Pollution Control Board (Annexure P-4) and order dated 16.4.2013, passed by Income Tax Appellate Tribunal Chandigarh Bench 'A', Chandigarh, in ITA No.835/Chd/2012, titled as *A.C.I.T. Shimla versus M/s HP State Environment Protection & Pollution Control Board* (Annexure P-A), are quashed and set aside and Appeal No.IT/448/11-12/Sml, filed by M/s H.P. State Environment Protection & Pollution Control Board, is remanded back and restored to its original number and position, with the direction to the authority to

consider and decide the same afresh after affording due opportunity of hearing to all concerned.

4. We clarify that we have not expressed any opinion on the merits of the case and the present appeal stands disposed of on the basis of the submissions made by learned counsel for the parties.

Pending application(s), if any, also stand disposed of.

(Sanjay Karol),
Judge.

(Sandeep Sharma),
Judge.

October 11, 2018 (KS)