



ITA No.6816/Mum/2012

Shree Bhagyoday Swetamber Murtipujak Jain Sangh Trust(Wada)

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

श्री डी.टी. गरासिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।

**BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No. 6816/Mum/2012

Shree Bhagyoday Swetamber Murtipujak Jain Sangh Trust (Wada) C/o Mayank J.Dasadia, Flat No. 20 Om Shiv Krupa CHS Ltd Plot No. 9-12 Haji Bapu Road Malad East Mumbai 400 097	बनाम/ Vs.	Director of Income Tax (Exemption) 6 th Floor Piramal Chambers Parel Mumbai 400 012
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAKTS-7183-G		
(□ पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Gaurang Unadkat, Ld. AR
Revenue by	:	Vidisha Kalra, Ld. CIT DR

सुनवाई की तारीख / Date of Hearing	:	08/05/2017
घोषणा की तारीख / Date of Pronouncement	:	12/05/2017



आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. In the captioned appeal, the assessee is aggrieved by rejection of application for registration u/s 12A of the Income Tax Act for approval of assessee Trust [Trust] by Director of Income Tax (Exemption) [DIT(E)] order dated 28/09/2012.

2. Briefly stated, the assessee Trust, created by *Trust Deed* dated 11/05/2011, filed Form No. 10A along with prescribed documents for registration u/s 12A(a) of the Income Tax Act, 1961 on 21/03/2012. The Trust is registered with Assistant Charity Commissioner, Greater Bombay Region vide registration certificate No. E-28075 dated 26/07/2011. The Ld. DIT (E) noted that the assessee changed its address during the year but did not obtain the approval of the Charity Commissioner for change of address. Further, the Ld. CIT(A), upon perusal of Trust Deed, came to conclusion that the certain clauses in the Trust deed were not in consonance with the Charitable objects and character of the Trust and further the investment clauses were mutually contradictory and detract from the binding legal obligation on the Trustees in regard to utilization of Trust fund which was an essential element of a valid public charitable Trust. The same resulted into rejection of application for registration, against which the assessee is in appeal before us.

3. The Ld. Counsel for Assessee [AR] drew our attention to the fact that the Ld. DIT(E) had passed the order on 28/09/2012 whereas the



assessee made certain submissions and evidences in support of registration vide his letter dated 27/09/2012, a copy of which has been placed in the *paper book*, however, the same has not been considered by the Ld. DIT(E) and therefore, resulted into violation of principle of natural justice.

4. Per *contra*, Ld. DR, justified the action of Ld. DIT(E) by contending that the application has rightly been rejected as the objects of the trust were found to be non-charitable in nature.

5. After considering the brief contentions raised before us, we see no harm in affording another opportunity of being heard to the assessee as *prima facie*, it appears that the contentions raised by the assessee in the said letter has not been considered. Therefore, without delving into merits, we restore the matter back to Ld. DIT(E) for re-consideration of the same.

6. The assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open court on 12th May, 2017.

Sd/-

Sd/-

(D.T. Garasia)

(Manoj Kumar Aggarwal)

न्यायिक सदस्य / **Judicial Member** लेखा सदस्य / **Accountant Member**
मुंबई Mumbai; दिनांक Dated : 12 .05.2017

Sr.PS:- Thirumalesh

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार(Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**