



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.303/CTK/2016

Vidya Sagar Charitable Trust, Plot No.A/103, Sahid Nagar, Bhubaneswar	Vs.	CIT, Bhubaneswar.
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri B.D.Ojha, AR
Revenue by : Shri Kunal Singh, CIT DR

Date of Hearing : 10/10/ 2017
Date of Pronouncement : 12 /10/ 2017

ORDER

Per N.S.Saini, AM

This is an appeal filed by the assessee against the order of the Pr. CIT-2, Bhubaneswar dated 4th July, 2016.

2. The assessee has raised the following grounds of appeal:

"1. Because that the Honorable Commissioner of Income Tax ,Bhubaneswar erred in law as well as in fact by refusing the registration U/s 12A of The I.T. Act,1961 after 6 months from the end of the month in which the application for registration U/s 12A was filed.

2.Because that the Honorable Commissioner of Income Tax ,Bhubaneswar erred in law as well as in fact by observing that no educational activities relating to imparting education have been commenced though the construction of building for starting educational activities has started as on 31.03.2002.

3.Because that the Honorable Commissioner of Income Tax, Bhubaneswar erred in law as well as in fact by observing that the trust is not "solely for educational purposes" which is the



criteria for claiming exemption U/s 10(23C)(iiiad) and not for the purpose of registration U/s 12A of The Act.

4. Because that the Honorable Commissioner of Income Tax, Bhubaneswar based on the observation of non-commencement of educational activities, "existing solely for educational purposes" should not have refused the registration U/s 12A of The Act rather the decision should have been based on the charitable objectives and activities of the trust."

3. The brief facts of the case are that the assessee trust was registered on 15.9.2001 with District Sub-Registrar, Bhubaneswar bearing registration No.5908. The trust had filed application u/s.12A(a) of the Act before the Commissioner of Income Tax, Bhubaneswar on 3.9.2002, which was within one year from the creation of the Trust. The CIT vide his order dated 11.2.2004 refused grant of registration to the assessee trust but this was not communicated to the assessee.

4. The assessee Trust filed writ petition before the Hon'ble High Court of Orissa in W.P. (C) No.3633/2016 praying for disposal of the application dated 3.9.2002 by the CIT, Bhubaneswar. The Hon'ble High Court of Orissa disposed of the said Writ Petition directing the CIT vide its order dated 27.4.2016 to dispose of the application for grant of registration u/s.12AA of the Act. Dated 3.9.2002 of the assessee Trust. Thereafter, the CIT, Bhubaneswar with his letter dated 4.7.2016 sent the order passed on 11.2.2004 dismissing the application of the assessee trust, which was received by the assessee on 14.7.2016.



5. In the above background of the case, the argument of Id A.R. of the assessee is that as per provisions of section 12AA(2) of the Act, every order granting or refusing registration under clause (a) of sub-section(1) of Section 12AA should have been passed within six months from the end of the month in which the application was received by the CIT. The order has been passed on 11.2.2004 which is after 16 months from the end of the month in which the application was received by the CIT and, therefore, the order is not valid. It is the contention of the Id A.R. of the assessee that Hon'ble Supreme Court in the case of CIT vs Society for the Promotion of Education in Civil Appeal No.1478 of 2016 @ Special Leave Petition (C) No.9705 of 2009 has held that once an application is made u/s.12AA of the Act and in case the same is not responded to within six months, it would be taken that the application is registered under the provisions.

6. Ld D.R. has relied on the order of the Pr. CIT.

7. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. We find that in the instant case, it is not in dispute that application for grant of registration was received by the CIT, Bhubaneswar on 3.9.2002. The said application was rejected by the CIT on 11.2.2004. Thus, the order refusing registration was passed on 11.2.2004, which was approximately after 16 months from the end of the month in which the application was received by the CIT is



barred by limitation u/s.12AA (2) of the Act, which provides that every order granting or refusing registration under clause (a) of sub-section(1) of Section 12AA of the Act should have been passed within six months from the end of the month in which the application was received by the CIT and hence, not a valid order. Further, in view of the decision of Hon'ble Supreme Court in the case of vs Society for the Promotion of Education(supra), wherein, it was held that once an application is made u/s.12AA of the Act and in case the same is not responded to within six months, it would be taken that the application is registered under the provisions. Therefore, we hold that the order of the Pr. CIT, Bhubaneswar dated 4.7.2016 is barred by limitation and not a valid order. Further in view of the decision of Hon'ble Supreme Court in the case of Society for the Promotion of Education (supra) since the application for grant of registration received by the CIT in his office on 3.9.2002 was not acted upon within a period of six months from the end of the month in which the application was received under clause (a) of sub-section (1) of Section 12AA, the registration is deemed to have been granted to the assessee. Thus, we direct the Pr. CIT, Bhubaneswar to grant registration u/s.12AA of the Act to the assessee and allow the appeal of the assessee.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced on 12 /10/2017.

Sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 12 /10/2017



B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant : Vidya Sagar Charitable Trust, Plot No.A/103, Sahid Nagar, Bhubaneswar
2. The Respondent. Pr. CIT, Bhubaneswar
3. The CIT(A)- concerned
4. Pr.CIT-
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack