

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ "ए" पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

श्री डी. करुणाकरा राव , लेखा सदस्य
एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष

**BEFORE SHRI D.KARUNAKARA RAO, AM
AND SHRI VIKAS AWASTHY, JM**

आयकर अपील सं. / ITA Nos.1582 & 1583/PUN/2014

Kalyankari Pratishthan,
Chaitraban, 21,
Ushakiran Society,
Trimbak Road, Nashik.

PAN : AACTK0495K

.... अपीलार्थी / Appellant

Vs.

CIT-1, Nashik

.... प्रत्यर्थी / Respondent

Assessee by : Shri Dhiraj Subhash Dandgaval
Revenue by : Shri Navaljit Kapoor, CIT

सुनवाई की तारीख / Date of Hearing : 31.05.2018	घोषणा की तारीख / Date of Pronouncement: 01.06.2018
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

There are two appeals filed by the assessee under consideration against the two separate orders of the CIT commonly dated 27-06-2014 under section 12AA and section 80G of the Act respectively. Rejection of registration of the trust and also of the exemption u/s.80G of the Act are the issues raised in these two appeals.

We shall take up the appeal **ITA No.1582/PUN/2014** first relating to rejection of request for **registration u/s.12AA of the Act.**

2. Grounds raised by the assessee are extracted as under :

"1. The Hon'ble CIT-1, Nashik erred in appreciating the submissions, rather taking them on record while passing his order rejecting application made u/s.80G and 12A of the Income Tax Act, 1961.

2. The Hon'ble CIT-1, Nashik erred in rejecting the registration of trust u/s.12AA by holding that the objects carried on by the trust are community specific.

3. *The order dated 27-06-2014 pronounced by the Hon'ble CIT-1, Nashik rejecting the exemption u/s.80G as well as order dated 27-06-2014 of the Income Tax Act rejecting the exemption u/s.12A, be set aside and the Hon'ble CIT-1, Nashik be directed to grant the exemption of the same of the Income Tax Act, 1961 to the appellant trust.*

4. *The appellant craves leave to add, alter or withdraw any of the grounds of appeal."*

3. Briefly stated relevant facts of the case are that the assessee is a Trust and filed Form No.10A for registration of Charitable or Religious Trust u/s.12AA of the Act. Trust was created on 27-07-2012 under the Bombay Public Trust Act, 1950. The objects of the trust revolve around the charity benefits to a particular communicated called "Ladshakiya Wani Samaj". As per the proceedings u/s.12AA of the Act, CIT-1, Nashik issued letters dated 20-05-2014, 19-06-2014 posting the case to 29-05-2014 and 26-06-2014 respectively to hear the assessee. On both the occasions, for one reason or the other, assessee did not appear. Consequently, the CIT vide Para No.5 of his order observed as under :

"5. None attended on behalf of the appellant trust on the said dates and thus the assessee trust has failed to prove that expenses were genuine and incurred towards the objects of the trust. The assessee has also failed to prove that the trust was engaged in genuine work of charitable in nature."

Resultantly, the CIT rejected the application made by the assessee for registration u/s.12AA of the Act as well as the claim of exemption u/s.80G of the Act. Aggrieved with the same, the assessee is in appeal before us.

4. Deviating from the grounds raised before us, Ld. Counsel for the assessee submitted that the assessee could not appear before the CIT as there was death in the family of a main trustee, who is aware of the facts of the trust. On the second occasion also, the assessee could not appear on the specified date. Further, he mentioned that the trustee

appeared on the subsequent date and however, there is no evidence to support the same. In the written submissions, assessee's representative submitted that, on similar facts in various cases, the registration/exemption was granted u/s.12AA/80G of the Act. Further, Ld. Counsel submitted that considering the fact that the assessee need to represent before the CIT, this matter may be restored to the file of AO for fresh adjudication.

5. On hearing both the parties and the Ld. DR for the Revenue who dutifully relied on the order of CIT, we are of the opinion that, on the facts of the present case, the principles of natural justice are not complied with for one reason or the other by either party of the litigation. Considering the same, we are of the opinion that there is requirement of scrutinizing the activities of the trust and if they are in tune with the objects of the trust. There are number of decisions as cited by the Ld. Counsel for the assessee before us which require to be considered in the remand proceedings. Therefore, we remand the all the grounds in the appeal to the file of CIT for fresh adjudication after granting reasonable opportunity of being heard to the assessee. Assessee is also directed to appear before the CIT with all the requisite documents. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

ITA No.1583/PUN/2014 – Section 80G of the Act

7. We find the result of the CIT's finding in appeal ITA No.1582/PUN/2014 shall have effect on this appeal since this appeal pertains to claim u/s.80G of the Act. Therefore, the issues raised in

this appeal are also stand remanded to the file of CIT for fresh adjudication after granting reasonable opportunity of being heard to the assessee. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

8. In the appeal, the appeal of the assessee is allowed for statistical purposes.

9. To sum up, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 01st day of June, 2018.

Sd/-

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

(D. KARUNAKARA RAO)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 01st June, 2018
सतीश

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A Bench" Pune;
4. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune