

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, " ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1564/CHD/2017

निर्धारण वर्ष / Assessment Year : 2016-17

Trust of Shri Radha Krishan Mandir, C/o Deepak Aggarwal, #211, Frist Floor, Sector 35-A, Chandigarh	Vs. बनाम	The CIT(Exemptions), Chandigarh
स्थायी लेखा सं./PAN NO. AAJTS5798J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Deepak Aggarwal, Advocate

राजस्व की ओर से/ Revenue by : Sh. N.D. Gupta, Sr. DR

सुनवाई की तारीख/Date of Hearing : 19.12.2018

उदघोषणा की तारीख/Date of Pronouncement : 19.12.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee / appellant against the order dated 25.09.2017 of the Commissioner of Income Tax(Exemptions), Chandigarh [hereinafter referred to as 'CIT(E)'] rejecting the application of the assessee for registration u/s 12AA of the Income-tax Act, 1961 (in short 'the Act').

2. At the outset, Ld. Counsel for the appellant has invited our attention to para 7 of the impugned order of the Ld. CIT (E) and has contended that it was specifically pleaded before the Ld. CIT(E) that the appellant is a

‘Mandir Trust’ and it has constructed a temple, wherein, other public welfare amenities have also been provided / maintained including a common hall which is available for use for general public. That the appellant trust has been involved in charitable and religious activities. However, the Ld. CIT (E) in his findings has given a general observation that the use of the land has been bestowed upon a particular entity and further he has doubted about the identity of the entity itself, whereas, the appellant had specifically pleaded about all the relevant facts that the appellant is a society and is maintaining aforesaid institution and is engaged in charitable and religious activities. The Ld. Counsel has further submitted that the Ld. CIT (E) has not properly examined the facts of the case and even not given proper opportunity to the appellant / assessee to present its case to furnish the necessary and relevant evidences.

3. The Ld. DR, on the other hand, has relied upon the findings of the Ld. CIT (E).

4. After considering the rival submissions and after going through the impugned order, we find that in this case the facts and evidences have not been properly appreciated. The matter needs a fresh examination at the end of the CIT(E) so as to arrive at conclusion about the charitable and religious nature of the activities carried out by the of the appellant trust. Therefore, the impugned order of the CIT is set aside and the matter is restored to the file of the CIT (E) for decision afresh in accordance with law. Needless to say that the CIT (E) will give proper opportunity to the appellant to present its case. The appellant is also directed to present itself

through its representative as and when called for by the Ld. CIT(E) and fully cooperate in furnishing the necessary documents and evidences and not seek unnecessary adjournments. With the above observations, the appeal of the appellant is treated as allowed for statistical purposes.

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Dated : 19.12. 2018

“आर.के.”

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar