

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'बी', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ B ” BENCH, AHMEDABAD

सर्वश्री प्रदीप कुमार केडिया, लेखा सदस्य एवं महावीर प्रसाद, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
SHRI MAHAVIR PRASAD, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.1754/Ahd/2018
(निर्धारण वर्ष / Assessment Year : -)

Addor Foundation C/o. Mehta Lodha & Co. Chartered Accountants 105, Sakar-I Nr.Gandhigram Rly Station Off Ashram Road, Ahmedabad	बनाम/ Vs.	The Commissioner of Income Tax (Exemptions) Ahmedabad-380 009
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :AAFTA 1287 J		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Hitesh Shah, AR
प्रत्यर्थी की ओर से/ Respondent by :	Shri Subhash Bins, CIT-DR

सुनवाई की तारीख / Date of Hearing	15/05/2019
घोषणा की तारीख/ Date of Pronouncement	27/ 05/2019

आदेश / ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax(Exemptions)- Ahmedabad, [CIT(A) in short] dated 20/07/2018.

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2. The effective ground of appeals raised by the Revenue read as under:-

1. That the learned CIT(E) has erred in law and facts by rejecting our application for Registration under section 12AA of the Act and therefore the ld.CIT(E) be directed to grant registration under section 12AA of the Act.

2. The learned CIT(E) has not decided the application within six from the end of month in which the application for Registration under section 12AA of the Act has been made and therefore the ld.CIT(E) be directed to grant Registration under section 12AA of the Act.

3. When the matter was called for hearing, the Ld.AR for the assessee, at the outset, pointed out that the application for registration of charitable trust under section 12(1) of the Act was made in prescribed Form No.10A on 23/01/2017 electronically. However, CIT(E) Ahmedabad while denying the registration under s.12AA of the Act wrongly observed that application for registration was received electronically on 21/01/2018. To assert its claim for uploading Form No.10A, the Ld.AR referred to the computer generated acknowledgement receipt issued by the Income Tax Department. Adverting further, the Ld.AR referred to the decision of Hon'ble Supreme Court in CIT vs. Society for the Promn.of Edn. (2016) 238 Taxman 0330 (SC) and contended that once an application is made under the said provision and in case the same is not responded to by the Incomer Tax Department within six months, it would be taken that application is registered under

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the provision. The Ld.AR submitted that when the six months are reckoned from the date of acknowledgement i.e. 23/01/2017, the enquiry should have been completed in a time bound manner from that date for the purposes of granting registration. The Ld.AR thereafter submitted that the CIT(E) has issued enquiry letter on 05/02/2018 i.e. after the window of six months available for enquiry for the purposes of registration under s.12AA of the Act which is not permissible in law. The Ld.AR thus submitted that a direction should be given for deemed registration of the trust in terms of this decision of Hon'ble Supreme Court. The Ld.AR thereafter referred to the decision of the Coordinate Bench in M/s.Kanchipuram Vaniga Vaisya Dharma Paripalana Sangam vs. CIT (E) order dated 21/01/2019 in ITA No.1892/Chny/2015 where the Coordinate Bench has directed the CIT(E) to grant registration under s.12AA from the date of expiry of period of six months in consonance with the decision of Hon'ble Supreme Court. The Ld.AR accordingly prayed for similar relief.

4. The Ld.DR, on the other hand, submitted that the Department has not verified the basic features of the trust namely, the objects, genuineness, etc.

5. We have carefully considered the rival submissions. Section 12AA(2) of the Act provides that every order granting or refusing

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registration under clause(b) of sub-section (1) of section 12AA shall be passed before the expiry of six months from the end of the month in which such application was received under section 12A(1) of the Act. The Hon'ble Supreme Court in the case of Society for the Promn.of Edn.(supra) has also held that registration shall be deemed to be granted by operation of law on expiry of six months where department has failed to respond to the application of the assessee. In the instant case, the CIT(E) has wrongly recorded the date of receipt of application for registration to be 23/01/2018 instead of 23/01/2017 and accordingly the enquiry initiated on expiry of six months runs contrary to the provisions of the Act as well as the law laid down by Hon'ble Supreme Court. Thus, in parity with the decision of the Coordinate Bench in the case of M/s.Kanchipuram Vaniga Vaisya Dharma Paripalana Sangam(supra), we direct the CIT(E) to grant registration under s.12AA of the Act from the date of expiry of period of the said six months.

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

This Order pronounced in Open Court on	27/ 05/2019
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Sd/-
(महावीर प्रसाद)
न्यायिक सदस्य
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Ahmedabad; Dated 27/ 05 /2019

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

Sd/-
(प्रदीप कुमार केडिया)
लेखा सदस्य
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(E)-, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad