

THE INCOME TAX APPELLATE TRIBUNAL  
"H" Bench, Mumbai  
Before Shri Shamim Yahya (AM) & Shri Pawan Singh (JM)

I.T.A. No. 4872/Mum/2017 (Assessment Year 2017-18)

M/s. Karhade Brahman Sangh 601, Om Leva Vikas Niketan Nanepada, Mulund East Mumbai-400 081.  PAN : AACTK1964D (Appellant)	Vs.	CIT(Exemption) 6 <sup>th</sup> Floor Piramal Chambers Parel Mumbai-400 012.  (Respondent)
---	-----	---

Assessee by	Shri Devendra Jain
Department by	Shri B. Srinivas
Date of Hearing	8.8.2019
Date of Pronouncement	19.8.2019

ORDER

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned CIT(Exemptions) dated 18.5.2017 wherein the assessee trust registration u/s. 12AA of the Act has been denied.

2. We note that in this case applicant-trust filed an application for registration u/s. 12A of the I.T. Act. Learned CIT(E) noted that on perusal of the memorandum of association, he issued notice to the assessee as to why its application should not be rejected on the ground that it was meant only for a particular community. Learned CIT(E) noted that show-cause was issued on 19.4.2017. However, since this issue was barred by limitation on 13.5.2017, he did not wait for the response and decided that the assessee does not deserve registration u/s. 12AA. Against this order, the assessee is in appeal before us.

3. We have heard both the counsel and perused the records. Learned counsel of the assessee submitted that learned CIT(E) has erred in appreciation memorandum of association of the assessee. He submitted that the assessee has also amended the said memorandum.

4. Per contra, learned Departmental Representative reiterated and submitted case law that the trust meant for a particular community should not be granted for registration.

5. Upon careful consideration, we note that learned CIT(E) has decided the issue against the assessee without receiving and considering the response to the show-cause notice. In this view of the matter, since learned counsel of the assessee's plea is that the assessee can make appropriate submission to the show-cause notice of learned CIT(E). We deem it appropriate to remit the issue to the file of learned CIT(E). learned CIT(E) is directed to consider afresh after giving the assessee proper opportunity of being heard. Both the counsel fairly agreed to this proposition.

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

Order has been pronounced in the Court on 19.8.2019.

Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 19/8/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai

6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai