

**आयकर अपीलीय अधिकरण "B" न्यायपीठ मुंबई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI**

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
BEFORE SRI MAHAVIR SINGH, JM AND SRI MANOJ KUMAR AGGARWAL, AM

**आयकर अपील सं./ ITA No. 589/Mum/2019**

(निर्धारण वर्ष / Assessment Year 2018-19)

Bombay Surti Kansara Panch Wadi Trust C/o Bhupendra A. Kansara Supreme Industrial Works, A 6&7, Laghu Udyog, IB Patel road, Goregaon-East, Mumbai-400 063	बनाम/ Vs.	The Commissioner of Income Tax (Exemptions) 6 <sup>th</sup> Floor, Piramal Chambers, Lalbaug, Parel
<b>(अपीलार्थी / Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>
<b>स्थायी लेखा सं./PAN No. AABTB9843P</b>		

अपीलार्थी की ओर से / <b>Appellant by</b>	:	None
प्रत्यर्थी की ओर से / <b>Respondent by</b>	:	Shri Rahul Raman, CIT DR

सुनवाई की तारीख / <b>Date of hearing:</b>	14.01.2020
घोषणा की तारीख / <b>Date of pronouncement:</b>	14.01.2020

**आदेश / ORDER**

**महावीर सिंह, न्यायिक सदस्य/**  
**PER MAHAVIR SINGH, JM:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Exemptions), Mumbai in Appeal No. CIT(E)/U/s.12A/50363-A/2018-19 dated 24.10.2018.

2. We have noticed from the grounds of appeal raised before us that the CIT(A) decided the issue ex-parte without providing the opportunity of being heard to the assessee and ignoring the material placed before him. For this, assessee has raised the following ground: -

*"1. In the circumstances and facts of the case, the commissioner of Income Tax (Exemptions) has erred in:*

*a. rejecting 12a application on conjectures and surmises.*

*b. Not considering letter dated 29.05.2018 filed on 08.06.2018 alongwith From No. 10A in duplicate and required documents before the issue of letter dated 11/06/2018 fixing the appointment on 25.06.2018 calling for various details by the Income Tax Officer (Exemptions) (HQ) (Tech).*

*c. not considering the attendance of our authorized representative and letters and details submitted vide our letter dated 03.10.2018 and 06.10.2018 handed over on 08.10.2018.*

*d. not accepting our letter dated 09.10.2018 alongwith the required details and the same was sent through registered post on 27.10.2016.”*

3. At the outset, it is noticed that none was present from assessee's side and this appeal is decided ex-parte qua the assessee

4. We noted that the assessee filed online application dated 12.04.2018 for registration under section 12A of the Act. But, CIT(Exemptions), Mumbai, denying to grant registration u/s.12A of the Act by rejecting the online application for the reason that it is not ascertained whether the activities of the assessee-Trust are genuine and in accordance with the objects or not. We also noticed that the order of CIT(E) is an ex-parte order.

5. On query from the Bench, the learned Sr. Departmental Representative agreed that the matter can be remanded back to the file of the AO for fresh adjudication on merits after allowing reasonable opportunity of being hearing to the assessee. Hence, we are of the view that this matter be restored back to the file of the CIT(E), who will allow reasonable opportunity of being heard to the assessee and also go into the materials placed by the assessee to prove the genuineness of the activities of the trust to be genuine trust so as to eligible for registration under



section 12A of the Act. Hence, the order of CIT(E) is set aside and matter remanded back to his file.

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

Order pronounced in the open court on 14.01.2020.

Sd/-

(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)  
(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)  
(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 14.01.2020

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai