

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

BEFORE SHRI GEORGE MATHAN, JM AND
SHRI ANIL CHATURVEDI, AM

आयकर अपील स० / ITA No.1131/PUN/2019

Shri Maruti Mandir,
Makni (Thor), Tal. Nilanga,
Latur.

..... अपीलार्थी /
Appellant

PAN : AAETS5026Q.

बनाम v/s

The Commissioner of Income Tax,
Exemption, Pune.

..... प्रत्यर्थी /
Respondent

Assessee by : Shri M.K. Kulkarni.

Revenue by : Shri B.Kishore, CIT.

सुनवाई की तारीख / Date of Hearing : 13.02.2020	घोषणा की तारीख / Date of Pronouncement: 17.02.2020
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the assessee is emanating out of the order of Commissioner of Income Tax (Exemptions) – Pune dated 19.02.2019 passed u/s 12AA(1)(b)(ii) of the Income Tax Act.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is a Trust registered under the Bombay Public Trust Act, 1950 on 26.07.1962. Assessee electronically filed an application for registration of Trust under Sec.12AA(1)(b)(ii) of the Act on 17.08.2018 and the same was rejected by CIT (Exemptions), Pune vide order No. ITBA/EXM/S/EXM1/2018-19/1017697617(1) dated

19.02.2019. Aggrieved by the order of Ld.CIT(E), assessee is now in appeal before us and has raised the following grounds :

“1. On the facts and in the circumstances of the case and in law the Ld. CIT (Exemption) Pune was not justified in rejecting the claim of Registration of the Trust under S. 12A of the Act passing an contradictory order on the issues holding that the objects of the Trust are not charitable. The Ld. CIT-Pune is obliged to judicially consider the issue of registration only by satisfying the objects of the Trust as charitable. The order is not sustainable and be set aside. The registration be granted to the Trust accordingly.

2. On the facts and in the circumstances of the case and in law though it is accepted that the 'objects or religious' still it is entitled registration following Hon'ble Supreme Court judgment reported as CIT v. Dawoodi Bohara Jamat (2014) 364 ITR 31 (SC). The Registration be granted to the Trust.

3. On the facts and in the circumstances of the case and in law order of the CIT (Exemptions) is against the settled principles of law and at the time of granting of registration the Ld. CIT(Exemption) is entitle to see and verify the objects of the Trust as envisaged by the Trust Deed. The activities of the Trust and its genuinity is a matter to be verified at the time of assessment only. The Ld. CIT(Exemption) has gone wrong in passing his rejection order considering only activities and genuinity of the objects which the prerogative of the A. O. to verify at the time of assessment only. The rejection order be set aside.

4. On the facts and in the circumstances of the case and in law the filing of the appeal is delayed by few days. The appellant was prevented by sufficient cause. The application for condonation of delay along with sworn affidavit will be filed at the time of "-hearing. The delay be condoned and appeal be admitted for hearing.”

3. Before us, at the outset, Ld.A.R. submitted that though assessee Trust has raised various grounds but the only grievance of the assessee is about the refusal of granting registration u/s 12AA of the Act.

4. Before us, Ld.A.R. submitted that the CIT(E) rejected the application of registration inter-alia for the reason that necessary documents were not furnished before him and the Trust Deed did not contain the dissolution and irrevocable clauses. He submitted that one

more opportunity be granted to the assessee for furnishing the details and the assessee would furnish all the required details as called for by the Ld.CIT(E). Ld. D.R. on the other hand, opposed the prayer of assessee of Ld.A.R. and submitted that sufficient opportunity was granted to assessee and the assessee has failed to furnish the required details and therefore CIT(E) was fully justified in rejecting the claim of registration of Trust u/s 12AA of the Act.

5. We have heard the rival submissions and perused the material on record. The issue in the present case is with respect to denial of claim of registration u/s 12AA of the Act. We find that Ld.CIT(E) has rejected the application of registration mainly for the reason that the required details were not furnished by the assessee. In view of the submission of the Ld.A.R. that the assessee will furnish all the required details as called for by Ld.CIT(E), we are of the view that one more opportunity be granted to assessee to present its case before Ld.CIT(E). We therefore restore the issue back to CIT(E), Pune to decide the issue of registration u/s 12AA of the Act in accordance with law and after granting reasonable opportunity of hearing to the assessee. **Thus, the grounds of the assessee are allowed for statistical purposes.**

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

Order pronounced on 17th day of February, 2020.

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd

(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 17th February, 2020.

Yamini

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(Exemptions), Pune.
4. Addl.CIT(Exemp), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" / DR,
ITAT, "A" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.