

आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

BEFORE SHRI SANDEEP GOSAIN, Hon'ble JUDICIAL MEMBER
AND SHRI O.P.MEENA, Hon'ble ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.49/SRT/2019

निर्धारण वर्ष/Assessment Year: -

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| Tirthvatika Religious Trust, Venus Estate, Sumul Dairy Road, Laldarwaja, Surat. [PAN: AADTT 2929 G] | V s . | The Commissioner of Income Tax (Exemptions), Ahmedabad. |
| अपीलार्थी / Appellant | | प्रत्यर्थी/Respondent |

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| निर्धारितकीओरसे /Assessee by | Shri H.N.Vepari – CA |
| राजस्वकीओरसे /Revenue by | Shri Sreenivas T.Bidari – CIT-DR |

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| सुनवाईकीतारीख/ Date of hearing: | 03.02.2020 |
| उद्घोषणाकीतारीख/Pronouncement on: | 03.02.2020 |

आदेश / O R D E R

PER SANDEEP GOSAIN, JM:

1. This appeal by the Assessee is directed against the order of Ld.Commissioner of Income Tax(Exemption), Ahmedabad dated 26.12.2018.

2. Grounds raised by the Assessee read as under:

“(I) Refusal to grant registration u/s.12AA of the Act.
On the facts and circumstances of the case and as per law, the learned Commissioner of Income-tax erred in refusing to grant registration u/s.12AA on the grounds without verifying records as also on the grounds which are not in accordance with the law.

(II) Miscellaneous:
The appellant craves leave to add, alter or vary any of the grounds of appeal.”

3. Brief facts of the case are that the assessee has applied for registration of trust u/s.12AA of the Income Tax Act before the Id.CIT(Exemption), Ahmedabad, however, the said application for registration u/s.12AA of the Income Tax Act was rejected by the CIT(Exemption), Ahmedabad by holding that assessee failed to file documentary evidences to enable him to bring satisfaction about the genuineness of the Trust activities.

4. The Id.CIT(Exemption) held that the assessee has not filed copy certification registration of Trust registered with Charity Commissioner / Registrar of Society / Registrar of Company, self-certified copy of Trust Deed, Bank Statement, Receipt of Payment Account, Income and Expenditure Account and audited account for F.Y. 2017-18 and other documents as are specifically mentioned in para no.6 of its order, whereas on the contrary, the Id.Authorised Representative (AR) submitted before that assessee had made an application for registration u/s.12AA of the Act and the details were compiled as and when sought vide letter dated 02.07.2018 and 26.11.2018. However, order rejecting the application of registration filed by the assessee u/s.12AA of the Act was passed on 26.12.2018 primarily giving reasons that assessee had not complied with the directions given by the Id.CIT(Exemption). It was further submitted that the assessee had already submitted all the required documents before the Id.CIT(Exemption) and thus the findings recorded by Id.CIT(Exemption) are factually incorrect.

5. Be that as it may, after considering the rival submissions, we are of the view the matter requires reconsideration at the level of Learned CIT(Exemption). Since the assessee had already submitted all the required documents before the Id.CIT(Exemption) and thus the findings recorded by Id.CIT(Exemption) are factually incorrect. Therefore, the order of Learned CIT(Exemption) cannot be sustained in Law. The principle of *audi alteram partem* is the basic concept of natural justice. The expression “*audi alteram partem*” implies that a person must be given an opportunity to defend himself. This principle is *sine qua non* of every civilized society. The right to notice, right to present case and evidence, right to rebut adverse evidence, right to cross examination, right to legal representation, disclosure of evidence to party, report of enquiry to be shown to the other party and reasoned decisions or speaking orders. We took this guidance for right of hearing, from the ratio as is laid down by the Hon'ble Supreme Court in the case of Maneka Gandhi v. Union of India, wherein Hon'ble Supreme Court has laid down that rule of fair hearing is necessary before passing any order. We find that it is pre-decision hearing standard of norm of rule of *audi alteram partem*. We, are therefore, of the view the matter requires reconsideration at the level of Learned CIT(Exemption), thus, we restore it back to Ld.CIT(Exemption) and direct that assessee be given one more opportunity of being heard and to file all the documents before the Id.CIT(Exemption), Ahmedabad as called-for and the Id.CIT(Exemption) is also directed to decide the application for

Registration filed by the assessee by passing a fresh order, accordingly the appeal of the assessee set-aside to the file of Id.CIT(Exemption) for statistical purposes.

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

7. Order pronounced in the open court on 03-02-2020.

Sd/-

(O.P.MEENA)

(लेखा सदस्यतथा/ACCOUNTANT MEMBER)

Sd/-

(SANDEEP GOSAIN)

(न्यायिक सदस्यकेसमक्ष /JUDICIAL MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 3rd February, 2020/S.Gangadhara Rao, Sr.PS

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

/ / **TRUE COPY** / /

Assistant Registrar, Surat