

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH ' A '**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

I.T.A. No. 876/Bang/2017
(Assessment Year: 2012 – 13)

M/s. Karnataka Industrial Area Development Board,
No. 49, 4th & 5th Floors,
Khanija Bhavan, Race Course Road,
Bangalore - 560001
PAN : AAATK1305J

..... Appellant.

Vs.

ACIT (Exemption), Circle 1,
Bangalore

..... Respondent.

Assessee By : Shri P. C. Khincha, C. A.
Revenue By : Shri Manjeet Singh, Addl. CIT DR
Date of Hearing : 05.02.2020.
Date of Pronouncement : 20.02.2020.

O R D E R

Per A. K. Garodia, A.M. :

This appeal is filed by the assessee and it is directed against the order passed by the CIT(A) – 14, LTU Bangalore dt. 30.01.2017.

2. Although the assessee has raised as many as six grounds with several sub grounds but the grievance is only one about Penalty of Rs. 150,000/- imposed by the AO u/s 271B.

3. In course of hearing, learned AR of the assessee submitted that as per the penalty order, it is held that the operation of the tribunal order restoring the cancellation of registration u/s 12AA (3) is stayed by Hon'ble Karnataka High Court and therefore, original order passed by DIT € cancelling the registration is still in vogue. He submitted that thereafter, as per judgment dated 07.11.2014 in ITA No. 261/2013, copy available on pages 50 to 55 of the paper book, Hon'ble Karnataka High Court has dismissed the appeal of the revenue. He submitted that registration of the assessee u/s 12A is restored by the tribunal and Hon'ble

Karnataka High Court has dismissed the appeal of the revenue against this tribunal order although when the penalty order was passed by the AO, the operation of that tribunal order was stayed by Hon'ble Karnataka High Court. He submitted that now after dismissal of the appeal of the revenue by Hon'ble Karnataka High Court, the penalty order has no legs to stand because as per the tribunal order rendered in the case of M/s Shanti Baba Rangi Ram vs. ITO in ITA No. 185/ASR/2012 dated 06.08.2012, copy available on pages 56 to 58 of the paper book, if the assessee's income is exempt u/s 11 which is part of Chapter III of Income Tax Act, section 44AB being part of Chapter IV of I T Act is not applicable. Learned DR of the revenue supported the orders of the lower authorities.

4. We have considered the rival submissions. We find that the tribunal has restored the registration of the assessee trust which was cancelled by DIT € u/s 12AA (3) and this tribunal order is approved by Hon'ble Karnataka High Court. Hence, there is genuine basis of this belief of the assessee that section 44AB is not applicable because the income of the assessee is likely to be exempt u/s 11 because the assessee is registered u/s 12A although, in a given case, the AO may find that exemption u/s 11 is not available to the assessee for some reasons. In the case of the assessee, at least the benefit of section 273B is available to the assessee. Hence, we delete the penalty.

5. In the result, Assessee's appeal is allowed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(N. V. VASUDEVAN)
Vice President

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,

Dated, the February, 2020.

/MS/

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|---------------|------------------------|
| 1. Appellant | 4. CIT (A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.