

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.591/PUN/2020

Solapur CETP Akkalkot Road
MIDC Association
Plot No.P-27, MIDC,
Akkalkot Road,
Near New Water Tank,
Solapur – 413006

PAN : AAMAS5304A

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner Income Tax (Exemption),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri S.G. Bhutadu
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 25-10-2021

घोषणा की तारीख / Date of Pronouncement : 25-10-2021

आदेश / ORDER

This is an appeal filed by the assessee trust directed against the order of Ld. Commissioner of Income Tax (Exemption), Pune passed u/s 12AA(1)(b)(ii) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.09.2020 denying grant of registration u/s 12AA of the Act.

2. Brief facts of the case are that the appellant is a company registered u/s 25 of the Companies Act, 1956 in the year 2012. It is formed with the

object of running Common Effluent Treatment Plant in MIDC Area. The appellant company made an application in Form No.10A for grant of registration u/s 12AA of the Act on 20.10.2019. On receipt of the said application, the ld. CIT(Exemption) called for certain information through ITBA portal on 11.11.2019 which was duly complied with by the appellant company. Subsequently, on going through the said information, the ld. CIT(Exemption) had called upon the appellant vide letter dated 13.08.2020 to file the details of expenditure incurred in order to satisfy himself as to the genuineness or otherwise of the activities carried on by the appellant company. According to the ld. CIT(Exemption), the said notice had not been complied with by the appellant company. In the circumstances, the ld. CIT(Exemption) drew an inference that the activities of the trust are not genuine, accordingly, denied the grant of registration vide letter dated 30.09.2020.

3. Being aggrieved by the order of the ld. CIT(Exemption), the appellant company is in appeal before us.

4. The ld. Counsel Shri S.G. Bhutadu submits that the ld. CIT(Exemption) was not justified in denying the grant of registration u/s 12AA of the Act as the appellant had complied with all the notices. He further submits that at the time of grant of registration the ld. CIT(Exemption) can only look into two aspects viz. (i) whether the objects of the applicant are charitable in nature or not; and (ii) genuineness of the activities carried on by the trust.

5. On the other hand, the ld. CIT-DR submits that the appellant company had not complied with the notices issued by the ld. CIT(Exemption). The information called for by the ld. CIT(Exemption) is only in order to satisfy himself that the activities carried on by the trust are genuine. In the absence of reaching satisfaction as to genuineness of the activities carried on by the trust, the ld. CIT(Exemption) is justified in denying the grant of registration.

6. We have heard rival submissions and perused the material on record. The solitary issue in the present appeal relates to the validity of justification for denial of grant of registration u/s 12AA of the Act. During the course of proceedings before the ld. CIT(Exemption), Pune, the appellant company was called upon to file certain information as to the details of expenditure incurred by it in the preceding financial year vide letter dated 13.08.2020 so as to enable the ld. CIT(Exemption) to form an opinion as to the genuineness or otherwise of the activities carried on by the appellant company. It is an admitted position that the appellant had not complied with the said notice for whatever reasons. However, keeping in view the difficulties being faced on account of Covid-19 pandemic, we are of the considered opinion that the interest of justice would be met if the matter is remanded back to the file of the ld. CIT(Exemption) to grant one more opportunity to the appellant company to comply with the notice issued on 13.08.2020 and with direction that the ld. CIT(Exemption) to decide the issue of grant of registration u/s 12AA of the Act on the touchstone of the law laid down by the Hon'ble Apex Court in M/s. Ananda Social and Educational Trust Vs. CIT & Anr. 272 Taxman 7 (SC).

Accordingly, the matter is remitted back to the file of the ld. CIT(Exemption).

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

Order pronounced in the open court on 25th October, 2021.

Sd/-
S.S. VISWANETHRA RAVI
JUDICIAL MEMBER

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 25th October, 2021
GCVSR

आदेश की प्रतिलिपि अद्येपित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" / DR 'B',
ITAT, Pune;
4. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

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