

## **आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक**

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH, CUTTACK

BEFORE SHRI C.M. GARG, JM & SHRI MANISH BORAD, AM

आयकर अपील सं./ITA No.216/CTK/2020

(निर्धारण वर्ष / Assessment Year :NA)

Mamata Short Stay Home, Deulasahi,Tulasipur, Cuttack	Vs	CIT(E), Hyderabad, Telengana
PAN No. : <b>AAFAM 2019 K</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Natabar Panda, AR
राजस्व की ओर से /Revenue by	:	Shri M.K.Gautam, CITDR
सुनवाई की तारीख / Date of Hearing	:	20/10/2021
घोषणा की तारीख/Date of Pronouncement	:	21/10/2021

### **आदेश / O R D E R**

#### **Per Bench:**

The above captioned appeal filed at the instance of assessee is directed against the order of Ld. Commissioner of Income Tax(Exemptions), Hyderabad, (in short 'CIT(E)'), dated 02.09.2020, wherein the assessee has raised the following grounds :-

- 01. For that the order of the Forum below is illegal, arbitrary, unjust and lack of jurisprudence, hence the same is liable to be quashed and the application for registration to the appellant U/s.12-AA of the Act is ought to be allowed in the facts and circumstances of the case.*
- 02. For that the appellant society has furnished copies of all the required document online before the Ld. CIT(E) during the course of hearing of the application for grant of registration, which he failed to notice, hence the order passed is liable to be quashed.*
- 03. For that the Forum below has passed the order rejecting the application for registration U/s.12-AA of the Act. Before that he failed to issue show cause notice to the appellant as per principle of natural justice. Hence the order passed arbitrarily is liable to be quashed.*

*04. For that inspite of clear instructions the Ld. CIT(E) passed the order U/s.12-AA(1)(b)(ii) of the Act during pandemic COVID-19 rejecting the application for grant of registration to the appellat society in violation of judicial orders.*

*OS. For that the Forum below has cited the case law of CIT-Vrs.- Savior Charitable Trust reported in (2013) 3S-Taxmann.com-29S (P&H) to reject the application of the appellant. The facts of said case is totally different in comparison to the facts of the present appellant, hence the order passed rejecting the application for registration to the above named society is liable to be quashed.*

*06. That the activities' of the appellant society and all other documents in connection with the grant of registration are in order and the society is entitled to get registration U/s.12-AA of the Act. The order of rejection is thus liable to be quashed in the facts of the case.*

*07.For that the appellant craves the leave to urge/amend/alter other grounds at the time of hearing of appeal. "*

2. At the outset, Id. AR submitted that though the assessee was having all the requisite documents, however, due to pandemic of COVID-19, could not produce the documents required by the CIT(E) resulting into dismissal of application for grant of registration u/s.12AA of the Act by the CIT(E). Therefore, the Id. AR prayed for an opportunity to place the required documents before the CIT(E).

3. On the other hand, Id. DR relied on the order of CIT(E).

4. On careful consideration of the rival submissions of both the parties and on perusal of the relevant material placed in the record of the Tribunal along with the order of the CIT(E), we find that the CIT(E) has passed order as the assessee failed to furnish the documentary evidence as required by him, whereby the genuineness of the activities could not be verified for grant of registration to the assessee society u/s.12AA of the Act. Before us, the Id. AR of the assessee has filed paper book consisting

of the documentary evidence as required by the CIT(E) and submitted that the assessee may be provided one more opportunity to produce the same before the CIT(E) to substantiate its claim. Considering the facts and circumstances of the case, submissions of the assessee and in the interest of justice, there will be no prejudice to the Revenue if one more opportunity be granted to the assessee to represent its case before the CIT(E). Accordingly, we restore the appeal of the assessee to the file of CIT(E) to pass a speaking and reasoned order considering the submissions of the assessee. The assessee is also directed to submit all the documents to substantiate its claim and cooperate with the CIT(E) positively for early disposal of the case.

5. We, accordingly as per the terms indicated above set aside all the grounds raised in this appeal to the file of Ld. CIT(E) for afresh adjudication. Needless to mention that proper opportunity of being heard should be provided to the assessee.

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

Order pronounced in the open court on 21/10/ 2021.

**Sd/-**

**(सी.एम.गर्ग)**

**(C.M.GARG)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**

**(मनिष बोराड)**

**(MANISH BORAD)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

**कटक** Cuttack; दिनांक Dated 21/10/2021

*Prakash Kumar Mishra, Sr.P.S.*

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

1. अपीलार्थी / The Appellant-  
Mamata Short Stay Home,  
Deulasahi, Tulasipur, Cuttack
2. प्रत्यर्थी / The Respondent-  
CIT(E), Hyderabad, Telengana
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,  
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack