

आयकर अपीलीय अधिकरण, "बी" न्यायपीठ, मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI
श्री आर. सी. शर्मा, लेखा सदस्य, एवं श्री अमरजीत सिंह, न्यायिक सदस्य, के समक्ष
BEFORE SHRI R.C.SHARMA, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.6530/Mum/2012
(निर्धारण वर्ष / Assessment Year: 2012-13)

Mumbai Waterfronts Centre C/o.P.K.Das & Associates Sankalp, 5 th Floor, Plot No.1040, Opp. Sayani Road, Prabhadevi,Mumbai-400025	बनाम/ Vs.	DIT (Exemption) Piramal Chambers, 6 th Floor, Lalbaug, Mumbai - 400019
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADTM0773B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri A. H. Dalal
Department by:	Shri N. P. Singh

सुनवाई की तारीख / Date of Hearing: 18.03.2016
घोषणा की तारीख /Date of Pronouncement:16.06.2016

आदेश / ORDER

PER AMARJIT SINGH, JM:

This is an appeal against the order dated 28.09.2012 passed by the Director Of Income Tax (Exemption), Mumbai [hereinafter referred to as the learned "DIT(E)"] relevant to the A.Y.2012-13. wherein the registration granted to the appellant has been cancelled in

view of the order passed u/s.12AA(1)(b)(ii) of the Income Tax Act, 1961(in short “the Act”).

2. The brief facts of the case are that the appellant trust moved an application for the registration u/s. 12A of the Act in the prescribed Form No.10A on 28.03.2012. The trust has been constituted by a Trust Deed on 10.01.2010 and was registered with the Charity Commissioner, Mumbai on 13.04.2010. One of the trustees, Shri P.K.Das, an Architect by profession is a proprietor of M/s.P.K.Das & Associates (Planners and Architects). The trust has been formed inter alia to carry out or support research studies, documentation of various waterfronts, to conduct dialogues and joint programmes with various other organizations having interest in urban development issues of Mumbai and all parts of India, to conduct seminars, workshops and conferences on matters relating to urban development and more particularly of issues pertaining to development and research on waterfronts and water bodies of Mumbai and other parts of India etc. As per the object clause, the collaboration and joint activities may include research studies, conferences, documentation, preparing development plans and proposals. The applicant has stated that trust is carrying out some of the projects like putting up of Bandra stand, project at Carter Road Bandra, improvement of the surrounding of Gateway of India, Juhu Beach, Dadar Prabhadevi beach, cleaning and desilting of Mithi river, beautification of Malad creek etc. The

applicant also furnished a publication titled “open Mumbai”. Thereafter, the authority considered the matter and rejected the application of the appellant u/s.12AA(1)(b) read with section 12A of the Act. Feeling aggrieved the appellant filed the present appeal before us.

3. We have heard the arguments advanced by the learned representative of the parties and have gone through the record carefully. The learned representative of the appellant has argued that the authority has rejected the application on wrong notions specifically when the activities of the trust were not found against the object and the activity of the trust was genuine one. On appraisal of the order in question it came into the notice that the authority after examining of the record observed that the trust did not raise any income and incurred any expenditure for the financial year 2009-10 and 2010-11. In the financial year 2011-12, the trust received the donation to the tune of Rs.20,16,740/- and incurred an expenditure to the tune of Rs.23,51,659/- toward organization of “open Mumbai” exhibition at the National Gallery of Modern Art in March, 2012. The appellant received donation of Rs.9,77,940/- from Adani Enterprises Ltd. but the same was not found as donation because it was paid to Shri P.K.Das one of the trustee but this amount was added to the account of the trust. Secondly the appellant did not submitted any proposal / projects /plans to the local authorities in accordance with its

object. Observing non justifiable action of the authority, we are of the view that the rejection of registration on the above said grounds is not justifiable. Merely, non receipt of income and to not to incur any expenditure in the Financial year 2009-10 and 2010-11 are not the good ground to reject the registration. It can not be tantamount to be illegal or contrary to the object of the Trust. The receipt of the donation to the tune of Rs.20,16,740/- for the F.Y. 2011-12 and expenditure of Rs.23,51,659/- and further received donation of Rs.9,77,940/- from M/s.Adani Enterprises Ltd. nowhere leads to the the circumstances to consider the object as ingenuine. The order nowhere speaks about the ingenuine activity of the trust and also nowhere speaks about the facts that the specific work was executing by the Trust contrary to the object of the Trust. The satisfaction of the authority should be based on the some cogent and convincing reasons on records. However, at the time of arguments the representative of the assessee produced the list of project which has been mentioned below:-

LIST OF PROJECT RECOMMENDED:

- A) **INCREDIBLE SEAFRONTS: PROMENADES AND PLAZAS**
1. Bandra Bandstand
 2. Carter Road
 3. Gateway of India
 4. Juhu Beach
 5. Dadar Prabhadevi Beach (Proposed)

- B) **FROM RIVERS TO NALLAHS TO RIVER AGAIN:**
 - 6. Mithi River
- C) **CREEKS AND MANGROVES:**
 - 7. Malad Creek
- D) **WETLANDS CONSERVATION:**
 - 8. Wetlands at Sewari
- E) **LAKES, PONDS AND TANKS:**
 - 9. Bandra Talao
- F) **INTEGRATION OF NALLAHS:**
 - 10. Irla Nallah
- G) **PLAYGROUNDS, PARKS AND GARDENS:**
 - 11. Kaifi Azmi Udyan
 - 12. Baji Prabhu Udyan
- H) **PLOTS AND LAYOUT RECREATIONAL GROUNDS (PROPOSED)**
 - 13. Plot in Juhu
 - 14. Mahim
 - 15. Mumbai Central
 - 16. Vile Parle
- I) **HISTORIC FORTS AND PRECINCTS**
 - 17. Bandra Fort
- J) **HILLS AND FORESTS (PROPOSED PROVISIONS):**
 - 18. Mandala Hill, Chembur
 - 19. Gilbert Hill, Andheri
 - 20. Sanjay Gandhi National Park, Borivali
 - 21. Aarey Milk Colony, Goregaon
- K) **CITY FOREST:**
 - 22. Juhu Forest

- 23. The Port Trust Garden
- 24. Mahim Nature Park
- 25. Veer Jijamata Udyan

L) **RAILWAY STATIONS (PROPOSED):**

- 26. Khar Station
- 27. Dadar Railway Station

4. In view of the above said circumstances we are of the view that the DIT(E) has passed the order in question wrongly and illegally which is not liable to be sustainable in the eyes of law. Therefore, we set aside the order in question and direct the concerned authority to reconsider the application of the appellant in accordance with law.

5. Accordingly the appeal filed by the **assessee is hereby allowed.**

Order pronounced in the open court on 15th June, 2016.

Sd/-

(R.C.SHARMA)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 15th June, 2016

MP

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**