

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.601/PUN/2020
निर्धारण वर्ष / Assessment Year : 2019-20

Pramod Kiran Sevadham Foundation,
35, Varad Estate,
Near Swami Samarth Mandir,
Gaikwad Colony Savedi Road,
Ahmednagar-414003.

PAN : AACTP6537B

.....अपीलार्थी / Appellant

बनाम / V/s.

CIT, Exemption,
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Prasad Bhandari
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 01.06.2021
घोषणा की तारीख / Date of Pronouncement : 01.06.2021

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee society directed against the order of the Learned Commissioner of Income Tax, Exemption, Pune ('CIT, Exemption' for short) dated 29.09.2020 denying the grant of registration u/s 12AA of the Income Tax Act, 1961 ('the Act').

2. The appellant raised the following grounds of appeal :-

"1. On the facts and in the prevailing circumstances of the case, the Learned CIT (Exemption) - Pune erred in rejecting the claim of the assessee for granting registration under section 12AA of the Act without appreciating the submission made by the assessee along with the documentary proofs of all the activities carried out by the Trust.

2. On the facts and in the prevailing circumstances of the case, the Learned CIT (Exemption) - Pune erred in rejecting the claim of the assessee for granting registration under section 12AA without giving an opportunity of being heard.

3. *The appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal.”*

3. Brief facts of the case are as under :-

The appellant society is registered under the Bombay Public Trust Act, 1950 on 23.06.2014. The appellant society is incorporated with the objects of promotion of education, social development, women empowerment, medical help etc. An application in Form No.10A was made on 16.03.2020 for grant of registration u/s 12AA of the Act. On receipt of the said application, the Id. CIT, Exemption had issued letter through ITBA Portal on 09.06.2020 calling for certain information/clarification so as enable him to process the application.

4. On receipt of the said questionnaire, the required information was filed by the assessee, on consideration of the said information, the Id. CIT, Exemption gave a finding that the corpus donations collected during the financial years 2016-17, 2017-18 and 2018-19 shall form part of the taxable income in the absence of any registration u/s 12AA of the Act which the appellant had failed to offer to tax and to pay tax thereon. Therefore, the Id. CIT, Exemption was of the opinion that the appellant society was engaged in activities other than the charitable activities and, accordingly, denied the grant of registration u/s 12AA of the Act vide order dated 29.09.2020.

5. Being aggrieved by the order of the Id. CIT, Exemption, the appellant is before us in the present appeal.

6. It is submitted, before us, that the appellant is engaged in the charitable activities and the Id. CIT, Exemption ought not to have rejected the grant of registration by looking into the issues of assessment.

7. On the other hand, ld. CIT-DR placed reliance on the order of the ld. CIT, Exemption.

8. We heard the rival submissions and perused the material on record. The only issue in the present appeal relates to the grant of registration u/s 12AA of the Act. Now, it is a settled position of law that at the time of grant of registration, the ld. CIT, Exemption can only look into two aspects i.e. (i) whether the objects of the trust or society are charitable in nature and (ii) genuineness of the activities of the trust or society in the light of the law laid down by the Hon'ble Apex Court in the case of Ananda Social and Educational Trust vs. CIT, 272 Taxman 7. It is also equally settled position of law that the grant of registration and assessment are two separate and distinct procedures prescribed under the Income Tax Act. The issues of assessment cannot be considered at the time of grant of registration as held by the following decisions :-

- (i) Fifth Generation Education Society vs. CIT, 185 ITR 634;
- (ii) Shantagauri Ramniklal Trust vs. CIT, 239 ITR 528;
- (iii) M. Visvesvaraya Industrial Research And Development Centre vs. ITAT, 251 ITR 852;
- (iv) New Life in Christ Evangelistic Association vs. CIT, 246 ITR 532;
- (v) N.N. Desai Charitable Trust vs. CIT, 246 ITR 452; and,
- (vi) CIT vs. Vijay Vargiya Vani Charitable Trust, 369 ITR 360.

9. From the perusal of the impugned order, it is clear that the ld. CIT, Exemption had denied the grant of registration by taking into consideration that the corpus donations collected in the preceding financial years had escaped assessment to tax which clearly falls under the realm of the assessment. In view of the settled position of law discussed above, we are of the considered opinion that the grounds on which the ld. CIT, Exemption had

rejected the grant of registration are untenable in law. Accordingly, we direct the ld. CIT, Exemption to grant the registration u/s 12AA of the Act.

10. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 01st day of June, 2021.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 01st June, 2021.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.