IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

INCOME TAX APPEAL No.23 OF 2011
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.13 OF 2011
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.111 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.114 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.115 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.117 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.133 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.136 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.138 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

INCOME TAX APPEAL No.139 OF 2010
The Commissioner of Income Tax-I, Nagpur. -Vrs.- The Vidarbha Cricket Association, Civil Lines, Nagpur.

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Shri Anand Parchure, counsel for petitioner.
Shri Dewani, counsel for respondent.

<u>CORAM</u> : <u>B.P. DHARMADHIKARI AND</u>
<u>P.N. DESHMUKH, JJ</u>.
<u>DATED</u> : <u>6th OCTOBER, 2015</u>

In the backdrop of order dated 10.9.2015 passed in these matters, advocate Parchure submits that keeping the correctness or otherwise of the use of "deemed registration" by assessee open for appropriation consideration, the appellant is ready and willing to adjudicate upon application moved by assessee on 1.4.2003.

The order dated 10.9.2015 is reproduced below for ready reference.

> *" We have heard Advocate Shri Parchdure for appellant, and Advocate Shri Dewani, for assessee. We have also perused the Full Bench Judgment of Allahabad High Court in Income Tax Appeal No. 348 of 2008 decided on 05.02.2015.*
>
> *Before proceedings to pass suitable order in the matter, we note that in Appeal No. 23 of 2011 revenue is before us challenging order of ITAT setting aside the judgment of CIT cancelling registration under Section 12AA given to assessee from 01.04.2009.*
>
> *In this situation, without prejudice to his other arguments, and also to comment upon Full Bench Judgment, mentioned supra, advocate Shri Dewani has submitted that eligibility of assessee to registration for the period from 01.04.1999 till 31.03.2009 is indirectly accepted. Shri Parchure is disputing this. According to him, application for such exemption was moved for the first time on 01.04.2003, and in it the registration has been sought from 01.04.1996.*
>
> *The other issue, which may*

> *therefore, fall for consideration of this Court, is how the affairs of assessee are to be looked into by the Department for period from 01.04.1999 till 31.03.2009, if the contention that there could not have been "deemed registration", is accepted.*
>
> *Shri Dewani has invited our attention to the fact that there are several Cricket Associations in country, which have been given registration under Section 12AA and hence, it cannot be denied to this assessee. He also points out that at this stage Income Tax Department is not coming with a single instance to disqualify assessee to such registration. Advocate Shir Parchure has invited our attention to the fact that the Mumbai Cricket Association has not been given this registration.*
>
> *We do not wish to record any final verdict at this stage. As noted supra, we are not inclined to keep the issue pending before this Court as it is engaging the department from 01.04.1996 onwards.*
>
> *In this situation, when application dated 01.04.203 is still not expressly decided, we place matter for further consideration on 28.09.2015. Parties to note that Court may dispose of matter finally, if it is otherwise convenient to the court."*

Shir Dewani submits that after order dated 10.9.2015, the assessee has also, by way of abundant precaution, moved an independent applications requesting the authorities to pass suitable orders on its application dated 1.4.2003. Shri Dewani submits that in view of settled legal position, the assessee has rightly conducted its affairs as having deemed registration. However, he has no objection if this issue is kept open for consideration after the decision on application dated 1.4.2003.

In this situation, with the consent of parties, we pass following order -

(1) Application dated 1.4.2003 moved by petitioners for grant of registration under Section 12AA of Income Tax Act, 1961 shall be decided by competent authorities within period of three moths from today.

(2) the issue pertaining to conduct of assessee in treating itself as deemed registered is kept open and can be considered thereafter. Said conduct or its impact on other appeals can also be examined after such adjudication. Parties are given the liberty accordingly to raise all relevant challenges after such adjudication.

(3) Accordingly, the appeal is disposed of.

JUDGE **JUDGE**

Hirekhan