

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936**

**WP(C).No. 7937 of 2015 (N)**  
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**PETITIONER(S):**  
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**SET FREE CHURCHES INDIA  
2/254/1, TITOS BHAVAN, KUTTICHIRA ROAD  
OLLUKKARA PO, KALATHODU  
THRISSUR 680655, REPRESENTED BY DR. THOMAS ALEXANDER  
PRESIDENT.**

**BY ADVS.SRI.HARISANKAR V.MENON  
SMT.MEERA V.MENON**

**RESPONDENT(S):**  
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- 1. COMMISSIONER OF INCOME TAX (EXEMPTION)  
CR BUILDINGS, IS PRESS ROAD, KOCHI - 18**
- 2. INCOME TAX OFFICER (EXEMPTIONS)  
CR BUILDINGS, THRISSUR 680001**

**R BY SRI.KMV.PANDALAI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**WP(C).No. 7937 of 2015 (N)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
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**EXT.P1: COPY OF TRUST DEED OF THE PETITIONER 04.06.2014**

**EXT.P2: COPY OF APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE  
FIRST RESPONDENT 08.07.2014**

**EXT.P3: COPY OF NOTICE ISSUED BY THE FIRST RESPONDENT 13.01.2015**

**EXT.P4: COPY OF AMENDMENT DEED OF THE PETITIONER 29.01.2015**

**EXT.P5: COPY OF NOTE PRODUCED BY THE PETITIONER BEFORE THE 1ST  
RESPONDENT**

**EXT.P6: COPY OF ORDER ISSUED BY THE FIRST RESPONDENT 30.01.2015**

**RESPONDENT(S)' EXHIBITS:       NIL.**  
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**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.7937 OF 2015 (N)**  
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**Dated this the 12<sup>th</sup> day of March, 2015**

**J U D G M E N T**

The challenge in the writ petition is against Ext.P6 order passed by the 1<sup>st</sup> respondent, whereby, the application preferred by the petitioner for registration under Section 12AA of the Income Tax Act, 1961, has been rejected by the 1<sup>st</sup> respondent. The contention of the petitioner, in its challenge against Ext.P6 order, is that the reasons, on the basis of which the 1<sup>st</sup> respondent has rejected the application submitted by the petitioner, are that (i) the trust deed presented by the petitioner along with his application did not contain certain clauses that were mandatory for the purposes of grant of registration. and (ii) that the petitioner had not produced any material to show that the trust in question had commenced charitable activities simultaneously with the presenting of an application for exemption. In the writ petition, the petitioner points out that on the 1<sup>st</sup> respondent intimating the petitioner with regard to the absence of the relevant clauses in the trust deed, he had immediately rectified the mistake through an amendment deed dated 29.1.2015, which was then

presented for registration before the Sub Registry, Ollukara. It is submitted that he obtained the amended deed from the Sub Registry on 7.2.2015, by which time, however, the 1<sup>st</sup> respondent had already passed Ext.P6 order that is impugned in the writ petition. It is also contended that, while the petitioner had in fact produced material to show that the trust had taken charitable activities simultaneously with the presenting of the application before the 1<sup>st</sup> respondent, Ext.P6 order of the 1<sup>st</sup> respondent does not refer to the said material.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that this is a case where the 1<sup>st</sup> respondent was obliged, as per the provisions of the Statute, to pass orders in the application on or before 31.1.2015. It was on account of this statutory compulsion that the 1<sup>st</sup> respondent could not grant the petitioner further time for producing documents for the purposes of disposing the application. Inasmuch as the petitioner has now demonstrated that the defects pointed out by the

1<sup>st</sup> respondent have since been cured by the petitioner, and further, there is also the contention with regard to non-consideration of material that was produced by the petitioner, while passing Ext.P6 order, I feel that the interests of justice would be served by directing the 1<sup>st</sup> respondent to reconsider the matter, in the light of the material now available to support the application submitted by the petitioner. In order to enable the 1<sup>st</sup> respondent to do this, I quash Ext.P6 order and direct him to reconsider the matter and pass fresh orders thereon, within a period of two months from the date of receipt of a copy of this judgment. The petitioner shall appear before the 1<sup>st</sup> respondent at 11 a.m. on any day, during the week commencing from 23.3.2015, as may be intimated to him by the 1<sup>st</sup> respondent.

The writ petition is disposed as above.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

prp