IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 49 OF 2016

National Education Society .. Petitioner.
V/s.
Commissioner of Income Tax-II, Pune
& Others .. Respondents.

Mr.Girish Dave with Mr. Sameer Dalal, for the Petitioner.
Mr.Suresh Kumar with Ms. Samiksha Kanani, for the Respondents.

CORAM: M.S.SANKLECHA, &
A.K.MENON, JJ.
DATE : 23rd MARCH, 2016.

P.C:-

At the request of the Counsel, the Petition is being heard finally at the stage of admission.

2 This Petition under Article 226 of the Constitution of India, challenges non-disposal of the Petitioner's application dated 13th December, 2005 for registration as a Trust under Section 12A of the Income Tax Act, 1961 (the Act), by the Commissioner of Income Tax.

3 In terms of proviso to Section 12AA (2) of the Act, the Commissioner of Income Tax is obliged to pass an order, granting or refusing an application for registration before the expiry of six months from the end of the month when the application was received. Further, where the Commissioner of Income Tax is inclined to refuse registration of the trust, he can do so only after granting the Applicant a personal hearing. This is in terms of first proviso to Section 12AA(1) of the Act.

4 In this case, Mr. Suresh Kumar, learned Counsel appearing for the Revenue, on instructions, states that the Office of the Commissioner of Income Tax (Exemption) is unable to locate the Petitioner's application dated 13th December, 2005. Consequently, he is not in a position to state whether the application dated 13th December, 2005 has been allowed or rejected.

5 In the above circumstances, we direct the Petitioner to furnish a copy of the application dated 13th December, 2005 for registration as a trust to the Commissioner of Income Tax (Exemption) within two weeks from today. On receipt of the application, the Commissioner of Income Tax (Exemption), would decide the same within a period of four weeks from the receipt of the application, in accordance with law including the decision of the Apex Court in CIT, Kanpur v/s. Society for the Promotion of Education, Allahabad (Civil Appeal No.1478 of 2016). In the above case, the Apex Court upheld the decision of the Allahabad High Court to the effect that where an application for registration as a trust under Section 12AA of the Act, has not been disposed of within six month from the date of its filing, then the application would deemed to have been granted.

6 Needless to state that pending the disposal of the Petitioner's application dated 13th December, 2005 for registration as a trust under Section 12AA of the Act by the Commissioner of Income Tax (Exemption), the Revenue will not adopt any coercive proceedings consequent to its notice of demand dated 22nd March, 2013 for the Assessment Year 2010-11 and a period of further two weeks thereafter, if the application is rejected.

7 **Petition disposed of** in the above terms. No order as to costs.

(A.K.MENON,J.) **(M.S.SANKLECHA,J.)**