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

INCOME TAX APPEAL NOS.53 AND 56 OF 2016

Commissioner of Income Tax (Exemptions), Pune, Thr. A.C.I.T. (Exemptions), Nagpur
-vs-
Vidarbha Cricket Association, Civil Lines, Nagpur.

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

Shri Anand Parchure, Advocate for appellants.

CORAM : B. P. DHARMADHIKARI & KUM. INDIRA JAIN, JJ.
DATE : December 05, 2016

1. In these appeals under Section 260A of Income Tax Act, 1961, department has questioned concurrent orders of I.T.A.T. and of C.I.T (Appeals) whereby the action of levying penalty upon the respondent assessee for belated submission of returns and consequential penalty under Section 272A(2)(e) has been set aside.

2. Advocate Shri Parchure submits that for not filing returns within time, the AO correctly issued show cause notice and has thereafter proceeded to levy penalty. The order passed by C.I.T (Appeals) on 24/09/2015 allowing the appeal of assessee and the

further orders of I.T.A.T. dated 31/12/2015 maintaining it are unsustainable.

3. It is not in dispute that connected Income Tax Appeal No.66 of 2016 was heard on 21/11/2016. Because of querries made during hearing, Advocate Shri Parchure with Advocate Shri Mohta produced before us today the copy of order dated 29/12/2016 under Section 12AA (1)(b)(i) of I. T. Act and an order of even date passed by very same Authority condoning the delay.

4. Perusal of said order condoning delay shows a finding by Commissioner of Income Tax (Exemptions) Pune that assessee Society was under bonafide belief that their predecessors in office had complied with all statutory requirements. The assessee had sought condonation of delay from 01/04/1996 itself. The delay was condoned and request for exemption was then considered on merits. Ultimately the certificate under Section 12AA of Income Tax Act, 1961 came to be issued in favour of assessee.

5. In impugned order dated 31/12/2015 while upholding application of mind by C.I.T (Appeals), I.T.A.T has accepted the bonafides of the assessee. In

paragraph 6 of its order it has pointed out law laid down by Honourable Apex Court in case of ***Hindusthan Steel Ltd. vs. State of Orissa 83 ITR 26***. It is correctly followed while upholding the order of C.I.T (Appeals).

6. Finding on bonafides of assessee is basically a finding of fact. In the present matters bonafides are concurrently accepted. We, therefore find that no substantial question of law arises in these appeals.

7. Appeal are rejected.

JUDGE **JUDGE**

Asmita