IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.14036 of 2002

Pukhraj Salecha Jain Trust
35, Madhavaram High Road
Perambur, Chennai - 600 011
Repreented by its Managing Trustee
P.Jayanthilal .. Petitioner

v.

1.The Union of India
Represented by the Chairman
Central Board of Direct Taxes
North Block
New Delhi.

2.The Director of Income Tax (Exemptions)
121, Mahatma Gandhi Salai
Chennai - 600 034.

3.The Assistant Director of Income Tax
(Exemptions) III
Chennai. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus, calling for the records of the second respondent Director of Income Tax (Exemptions) in his file No.DIT(E) No.2(160)/98-99, dated 18.2.2002, quashing the same and directing the second respondent DIT(E) to afford the petitioner Trust an opportunity of being heard in respect of its request for condonation of delay in filing the application f for registration and pass a fresh order under section 12AA of the Act.

For Petitioner : Mr.T.N.Seetharaman

For Respondent : Mr.J.Narayanaswamy
Standing Counsel

ORDER

Heard Mr.T.N.Seetharaman, learned Counsel appearing for the petitioner and Mr.J.Narayanaswamy, learned Standing Counsel, appearing for the respondents.

2. The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records of the second respondent in his file No.DIT(E) No.2 (160)/98-99, dated 18.2.2002 and to quash the same and direct the second respondent DIT(E) to afford the petitioner Trust an opportunity of being heard in respect of its request for condonation of delay in filing the application for registration and pass a fresh order under section 12AA of the Act.

3. It is the case of the petitioner that even without affording an opportunity to the petitioner-Trust the second respondent has passed the impugned order.

4. On a perusal of the letter dated 12.01.2002, it could be seen that the petitioner-Trust had requested for personal hearing to substantiate the ground stated for condonation of delay and for registration of the Trust from 01.04.1988. A Vakalat on behalf of the petitioner-Trust was also filed on 12.01.2002. However, the second respondent without affording an opportunity to the petitioner-Trust, passed the impugned order dated 18.2.2002.

5. In these circumstances, since the second respondent had passed the impugned order against the principles of the natural justice, I am of the considered view that the impugned order has to be set aside and the matter should be remitted back to the second respondent for fresh consideration.

6. Accordingly, the impugned order dated 18.2.2002 is set aside and the matter is remitted back to the second respondent for fresh consideration and the second respondent is directed to consider the case of the petitioner-Trust after hearing the submissions on behalf of the petitioner-Trust and pass fresh orders on merits and in accordance with law.

With these observations, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Chairman
Union of India
Central Board of Direct Taxes
North Block
New Delhi.

2.The Director of Income Tax (Exemptions)
121, Mahatma Gandhi Salai
Chennai - 600 034.

3.The Assistant Director of Income Tax
(Exemptions) III
Chennai.

+1cc to Mr.T.N.Seetharaman, Advocate, S.R.No.6819
+1cc to Mr.J.Narayanaswamy, Advocate, S.R.No.7592

W.P.No.14036 of 2002

vgi(CO)
srg(15/02/2016)