

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No.2168/Bang/2019

Assessment Year : N.A.

Mathru Chaya Jain Mahila Sanghatan, No.26, 3 rd Cross, Shankarapuram, Bangalore – 560 004. PAN: AAETM 7626E	Vs.	The Commissioner of Income Tax (Exemptions), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Suman Lunkar, CA
Respondent by	:	Shri Muzafar Hussain, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	13.01.2020
Date of Pronouncement	:	29.01.2020

ORDER

Per N.V. Vasudevan, Vice President

ITA No.2168/Bang/2019 is an appeal by the assessee against the order dated 22.11.2018 of CIT(Exemptions), Bangalore [CIT(E)] passed u/s 12AA(1)(b)(ii) of the Income Tax Act, 1961 (the Act) rejecting the application of the assessee for grant of registration u/s 12AA of the Act. The application for grant of registration was made by the assessee in Form-10A on 25.5.2018.

2. The Assessee is a trust and stated to be created for the purpose of carrying out certain charitable activities and run by ladies. The assessee applied for grant of registration u/s 12AA of the Act in Form-10A on 25.5.2018.

3. In the impugned order the CIT(E) in rejecting application for registration u/s.12AA of the Act, the CIT(E) has observed that a notice was issued to the Assessee calling upon the Assessee to file certain details and fixing the date of compliance as 14.11.2018. According to the CIT(E), the Assessee did not respond to the said letter and therefore the CIT(E) came to the conclusion that he was not in a position to satisfy himself about the fulfilment of the conditions for grant of registration and he therefore held that he was not in a position to verify the objects of the Trust and genuineness of its activities and therefore the application for registration u/s 12AA of the Act was being rejected.

4. Aggrieved by the aforesaid order of CIT(E) the assessee has filed the present appeal before the Tribunal.

5. We have heard the rival submissions. There is a delay of about 245 days in filing the appeal by the Assessee. In an application for condonation of delay in filing the appeal, it has been stated that the Assessee trust was managed by ladies who were not conversant with the tax laws. They were actively pursuing for getting donations from public to carry out charitable activities but found that in the absence of grant of approval u/s.80G of the Act, donors were not willing to donate. They approached professional for obtaining approval u/s.80G of the Act and were informed that the first step was to obtain registration u/s.12A of the Act. Thereafter the rejection of application u/s.12A was brought to his notice and he advised that appeal

should be filed before tribunal. Thereafter the appeal was filed immediately. The contents of the application have been verified as true and correct by the President of the Trust in an affidavit filed before the Tribunal.

6. Considering the facts and circumstances stated in the application for condonation of delay, we are satisfied that there was a reasonable and sufficient cause for the delay in filing the appeal before Tribunal and accordingly the said delay is condoned.

7. As far as the merits of the appeal regarding grant of registration u/s.12A of the Act is concerned, it was stated by the Id. Counsel for the assessee before us that the notice calling for details and fixing the case for hearing on 14.11.2018 towards the end of the expiry of limitation for passing orders u/s.12A of the Act which expires on 30.11.2018 was the only opportunity afforded to the Assessee and considering the absence of adequate and proper opportunity the order of CIT(E) may be set aside and the issue decided afresh on merits after affording opportunity of being heard. dated 20.2.2019 was never received by the Assessee. Keeping in mind the submissions made before us and taking note of the fact that the time limit for passing order u/s.12AA would expire on 30.11.2018 and the time allowed to the Assessee for compliance was not sufficient, we are of the view that the assessee did not have a proper opportunity of being heard before the CIT(E). We therefore set aside the orders of CIT(E) and restore the question of grant of registration u/s.12AA of the Act to the CIT(E) for fresh consideration in accordance with law, after affording the assessee opportunity of being heard.

8. In the result, the appeal is treated as allowed for statistical purposes.

Pronounced in the open court on this 29th day of January, 2020.

Sd/-

(A.K.GARODIA)
ACCOUNTANT MEMBER

Sd/-

(N V VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 29th January, 2020.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(E)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar
ITAT, Bangalore.