

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI D. KARUNAKARA RAO, AM AND
SHRI LALIET KUMAR, JM

आयकर अपील सं. / ITA No.1167/PUN/2019
निर्धारण वर्ष / Assessment Year : 2019-20

Pens Sahyog Foundation,
15, 3rd Floor, Ajita Enclave,
Behind Chintamani Mandir,
M.P. Road, Virar East,
Thane-401303.

PAN : AAKCP0318B

.....अपीलार्थी / Appellant

बनाम / V/s.

CIT (Exemptions),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 05.02.2020
घोषणा की तारीख / Date of Pronouncement : 07.02.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee is against the order of the CIT (Exemptions), Pune passed u/s 12AA(1)(b)(ii) of the Act dated 24.05.2019 for the assessment year 2019-20.

2. The grounds raised by the assessee are as under :-

"1.0 On facts and circumstances of the case and in law, Ld. CIT (Exemption) erred in passing the order u/s 12AA exparte without providing an adequate opportunity of being heard and on ignoring the fact that the non-compliance had occurred under the bonafide reasons and compelling circumstances beyond control of the appellant;

2.0 On facts and circumstances of the case and in law, Ld. CIT (Exemption) erred in rejecting the registration u/s 12A of the Act;

3.0 *A prayer is made to set-aside the order back to the file of Ld. CIT(Exem) with a direction to decide the application seeking for registration u/s 12A of the Act.*

The appellant craves leave to add, amend, alter and/or withdraw any of the grounds of appeal at the time of hearing.”

3. Despite service of notice by the ITAT, there was none to represent the assessee. Therefore, this appeal is being decided on the basis of material available on record and after hearing the ld. DR for the Revenue.

4. Before us, ld. DR for the Revenue explaining the facts of the case and submitted that the assessee wants one more round of proceedings before the CIT (Exemptions) and brought our attention to ground no.1 relating to the grant of adequate opportunity to the assessee.

5. On perusal of the order u/s 12AA of the Act, we find the CIT (Exemptions) rejected the registration for want of details and due to non-cooperation of the assessee as per the discussion given in para 4 and 5 of the order of CIT (Exemptions). For the sake of completeness, the said para 4 and 5 are extracted hereunder :-

*“4. On ITBA portal, it is seen that the applicant **company has not uploaded/submitted any details till date** which were called for vide notice dated 24.01.2019. Even, on perusal of the submission uploaded alongwith 10A application, it is seen that the **applicant has not submitted details of the charitable activities carried out** since alongwith proof, details of bank account, declaration u/s 13(1)(c) and 11(5) of the IT Act, No objection certificate for applicant premise and details of donation received during the year as laid down according to the provisions of section 12AA(1)(a) of the IT Act.*

Therefore, the genuineness of the charitable nature of activities is not established.

5. In view of the above, the applicant company has not furnished requisite details on the ITBA portal or complied the notice issued dated 24.01.2019 to process the application for granting registration u/s 12AA of the Act. Therefore, I am not satisfied about the charitable nature of objects as well as the genuineness of activities of the company/ institution and therefore, the request for grant of registration u/s 12AA of the Income-tax Act, 1961 cannot be accepted.”

6. The above contents of para 4 and 5 of the CIT (Exemptions)'s order suggest that the adjudication of the issue by the CIT was done based on inadequate documentation and representation. In our view, it calls for one more round of proceedings before the CIT (Exemptions). Accordingly, without going into the merits of the case, we remand the issue to the file of the CIT (Exemptions) for one more for fresh adjudication. This time, the CIT (Exemptions) shall decide the above issue after granting reasonable opportunity of being heard to the assessee in accordance with set principles of natural justice. Assessee shall comply with the CIT (Exemptions) as per the law. Thus, the relevant ground raised by the assessee in this appeal is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 07th day of February, 2020.

Sd/-

Sd/-

(LALIET KUMAR)

(D. KARUNAKARA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

लेखा सदस्य/**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 07th February, 2020.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Exemptions), Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.