

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

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 496/PUN/2020

Abhinav Manav Vikas Sanstha
1, C/o. Shrikishan Somani
Vidyalayam More Nagar,
Kanheri Road, Latur,
PAN : AAATA3357N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax (Exemptions)
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni

Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 23.03.2021

घोषणा की तारीख / Date of Pronouncement : 23.03.2021

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of the Ld. CIT(Exemption), Pune dated 26.02.2020 passed u/s.12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') as per the following grounds of appeal :

“On the facts and in the circumstances of the case and in law the Ld. CIT(Exemptions)-Pune was not justified in refusing the application submitted for registration under section 12AA of the Act to the Trust. The rejection of the registration is not according to law. The appellant prays the registration under section 12AA be granted to the Trust.

2. On the facts and in the circumstances of the case and in law and in the alternative the Ld.CIT(Exemptions) be directed to grant registration under section 12AA to the Trust in accordance with the provisions of law.

3. On the facts and in the circumstances of the case and in law the delay has occurred in filing of this appeal which should have been, filed within 60 days from the date of receipt viz 02-03-2020. The appellant trust was prevented by sufficient cause as it could not be filed due to Lockdown position in the country due to COVID-19. The delay be condoned and the appeal be admitted for adjudication.

4. The appellant craves to leave, add/amend or alter any of the above grounds of appeal.”

2. At the very outset, the Ld. Senior Counsel for the assessee submitted that the appeal is time barred by 101 days and in respect thereof, he has filed condonation petition along with affidavit. It is noticed that it was due to COVID-19 period and lockdown, because of which, this delay has occurred. The Ld. DR also agreed that this delay was un-intentional and cannot be attributed to the deliberate conduct of the assessee. It was because of the COVID circumstances and therefore, such delay had occurred.

3. After hearing the submissions of the parties herein, we condone the delay of 101 days and admit the appeal for hearing on merits.

4. The brief facts of the case are that the assessee has made an online application in Form No.10A for approval of the Trust/Institution u/s.12AA of the Act on 21.08.2019 under the category of Charitable Trust/Institution. The assessee is registered under Bombay Public Trust Act, 1950 with registration number: E-2902/LATUR dated 27.12.1992. The application of the assessee

was carefully perused and considered along with its annexures by the Ld. CIT(Exemption). Thereafter, a letter was issued through ITBA portal to the assessee on 05.10.2019 requesting to upload certain information/clarification by 21.10.2019 in order to process the application. The assessee was also requested vide Point No.5 of the notice dated 05.10.2019 to attend the office on 21.10.2019 and to produce the original copy of Trust Deed/MOA for verification. The said notice was duly served on the assessee through ITBA portal as well as by post. The assessee, however, submitted partial compliance on ITBA portal in response to the said notice.

5. At the time of hearing, the Ld. Senior Counsel for the assessee pointed out that certain discrepancies were observed by the Ld. CIT(Exemption) vide order dated 26.02.2020 at Para 3 and 4 of his order. Both the Paras are reproduced herein below for the sake of completeness:

“3. The applicant was informed vide notice dated 05.10.2019 about the following discrepancies found in it’s Trust Deed/MOA:

Point No.14: The Trust Deed/MOA does not have irrevocability clause

Point No.15: The Trust Deed/MOA does not have a clause that the beneficiaries are a section of public and not specific individuals

Point No.16 : The Trust Deed/ MOA does not have any clause providing that in the event of dissolution of Trust/Society/ Non Profit Company, the funds/assets of the Trust/Society Non profit Company will be transferred only to some other Trust/Society/ Non Profit Company HAVING SIMILAR OBJECTIVES.

Point No.17: The Trust Deed/MOA does not have any clause providing that the funds/ property of the institution will be used only for the objectives of the Trust/ Society/ Non profit Company.

The applicant was, therefore, requested to get the trust deed/MOA amended and upload the amended copy. However, the applicant did not comply and not uploaded the amended copy of Trust Deed/MOA, till date.

4. Further, the submission uploaded by the applicant on ITBA portal in response to notice dated 05-10-2019 is not complete in as much as the applicant has not uploaded Identity details of trustees/Directors, as

required under the provisions of section 12AA(1)(a) of the IT Act. Due to change of incumbent of office, further opportunities under the provisions of section 129 of the Income Tax Act, 1961 dated 06/01/2020, 20/01/2020 and 05/02/2020 were given to the applicant, duly sent through E-Portal requesting it to upload its complete compliance of the questionnaire dated 05/10/2019 on the E-portal. However, the applicant has not uploaded the above requisite documents which were specifically called for vide the said questionnaire. Therefore, the genuineness of the charitable nature of activities is not established.”

5.1. Addressing to the issues mentioned in these Paras, the Ld. Senior Counsel for the assessee submitted that because of these shortcomings the registration of the assessee trust u/s.12AA of the Act was denied by the Ld. CIT(Exemption). However, as on date scenario, the assessee has given all the relevant details to the Department as was called for. The Trust Deed also has been amended accordingly. Therefore, one final opportunity may be given so that the assessee can represent its case on merits with all requisite details/evidences filed before the Ld. CIT(Exemption) and therefore, requested the matter may be remanded back to the file of Ld. CIT(Exemption).

6. The Ld. DR did not raise any objections to the submissions put forth by the Ld. Senior Counsel for the assessee.

7. Having heard the parties herein and submissions made on record, the assessee has already rectified and amended its Trust Deed and also submitted relevant details/evidences as have been called for by the Department. Therefore, in the interest of justice, we are of the considered view that one opportunity should be given to the assessee so that the assessee trust can represent its case on merits with all those relevant details/evidences filed before the Ld. CIT(Exemption). Therefore, we set aside the order of the Ld. CIT(Exemption) and remand the matter back to his file for

re-adjudication as per law while complying with the principles of natural justice.

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

Order pronounced on 23rd day of March, 2021.

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd March, 2021
SB

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

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

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	23.03.2021	Sr.PS/PS
2	Draft placed before author	23.03.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		