

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 329/CHNY/2021

Carnatic Foundation, **The CIT(Exemption),**
No.2, Teju Plaza, Basement 2, v. Chennai.
South Avenue, Sri Nagar Colony,
Saidapet, Chennai – 600 015.

PAN: AABTC 8873E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri M. Abhishek, CA
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 06.05.2022

घोषणा की तारीख/Date of Pronouncement

: 06.05.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VP:

At the outset, the Id.AR for the assessee stated that the assessee has filed early hearing petition which is listed as Early hearing petition No.84 of 2021. The Id.AR drew our attention to petition stating that "Assessee is a Non-profit organization which is

part of the globally recognized Rotary Group. In the course of charitable activities undertaken by the Organisation, there are several donations received by them. However, due to the ex-parte order passed by the Learned CIT rejecting registration 12AA, the assessee is unable to effectively carry out on its charitable activities." Hence, he requested that the appeal may be posted at an early date because earlier Bench has not functioned on 4th May, 2022 and the matter is actually adjourned to 20.06.2022.

2. It is noticed that this appeal is time barred by 588 days and assessee has filed condonation petition supported by affidavit of the Managing Trustee of the Trust. It is noticed that the CIT(Exemption) rejected the application filed in Form No.10A vide letter dated 12.12.2019 which was served on the assessee on 12.12.2019 itself. The appeal before Tribunal was to be filed within 60 days i.e., on or before 10.02.2020 but actually the appeal was filed only on 09.09.2021 thereby there is a delay of 577 days. Now there is an ambiguity whether there is a delay of 577 days or 588 days. However, it is further noted that majority delay period from 25.03.2020 i.e., the date on which lockdown was announced countrywide in view of Covid-19 pandemic, other than that the delay is 42 days. Due to this small delay and thereafter due to

Covid-19 lockdown and in view of the decision of Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022, we feel that the delay needs to be condoned. Hence, we condone the delay and admit the appeal.

3. At the outset we noted that the order passed by CIT(Exemption), Chennai u/s.12AA(1)(b)(ii) of the Act dated 12.12.2019 is totally ex-parte and only three opportunities were given and that also for a very short period. The CIT(Exemption) rejected the assessee's application filed in Form No.10A for registration of trust u/s.12AA of the Act without adverting to the merits of the case and observed in para 4 as under:-

“4. In this case, the assessee has not taken any of the above three opportunities granted. It was specifically mentioned in the said email that in case of failure to respond / non-compliance in the above mentioned three dates, further opportunity will not be granted and the application would stand rejected for non-compliance. As the case is getting time barred by limitation and there was no response from the applicant as mentioned herein above, it is not possible to process the application any further. Therefore, the application for registration u/s 12AA is rejected.”

4. When these facts were brought to the notice of both the parties, both consented that the matter itself can be heard and sent

back to the CIT(Exemption), Chennai for allowing opportunity to the assessee to furnish details in regard to registration of trust u/s.12AA of the Act and for passing a speaking order on merits.

5. As both the parties have consented for hearing, we took up this matter and seen that the order of CIT(Exemption) is ex-parte and no whisper about merits of the case as regards to registration of trust u/s.12AA of the Act. Hence, we set aside the order of CIT(Exemption) and remand the matter back to his file for fresh consideration.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 6th May, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 6th May, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |