

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. 36/Chny/2021

Action for Rehabilitation Trust, 5, Kattalai Post, Krishnarayapuram, Karur – 639 108.	बनाम/ Vs.	CIT(Exemption) Aayakar Bhawan, Annexe Building, No. 121, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AABTA-3865-G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri G. Baskar, Advocate
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri M. Rajan, CIT

सुनवाई की तारीख/ Date of Hearing	:	16.06.2022
घोषणा की तारीख / Date of Pronouncement	:	22.06.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by assessee is arising out of the order of CIT (Exemption), Chennai u/s. 12AA(1)(b)(ii) of the Income-tax Act, 1961 (herein after referred to as 'the Act') vide order dated 09.01.2020 rejecting the application for registration of trust without providing reasonable opportunity of being heard

and also not deciding any of the issues on merits and simpliciter for any compliance.

2. Ld. Counsel for the assessee stated that the appeal filed by assessee is time barred for 347 days and condonation petition was filed. Ld. Counsel stated that the order of the CIT(E) is dated 09.01.2020 and the same was served by e-mail on 09.01.2020 and due date of filing the appeal was 09.03.2020, but appeal was filed on 19.02.2021 thereby the delay of 347 days. Ld. Counsel stated that practically the delay was of 5 or 6 days because the appeal was to be filed on 09.03.2020 but Hon'ble Supreme Court has condoned the actions of several authorities from the date of 15.03.2020 in view of the Covid-19 pandemic spread in India from March. We noted that the minor delay of 5 or 6 days is attributable to the assessee, the majority period falls under Covid-19 pandemic and the 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. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeal.

3. Ld. Counsel for the assessee drew our attention to the order of the CIT(E) dated 09.01.2020 rejecting the assessee's application filed in Form No. 10A for registration of trust u/s. 12AA of the Act dated 04.07.2019 but the CIT(E)

simpliciter decided the issue exparte without providing opportunity of being heard and not passing an order on merits by observing 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."

When these facts were confronted to Ld. CIT(DR), he could not controvert the above facts situation.

4. After hearing rival contentions and going through the facts of the case, we set aside the order of the CIT(E) passed in rejecting the application u/s. 12AA of the Act without providing reasonable opportunity of being heard to the assessee and simpliciter passing the order rejecting the application for registration of trust simpliciter for non-appearance of the assessee. Hence, we set aside the order of the CIT(E) and remand the matter back to the file of the CIT(E) for passing the speaking order after allowing reasonable opportunity of being heard to the assessee.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 22nd June, 2022.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

JPV

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF