

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI

BEFORE SHRI AMIT SHUKLA (JUDICIAL MEMBER)

AND

SHRI S.RIFAUH RAHMAN (ACCOUNTANT MEMBER)

I.T.A No.3181& 3182/Mum/2022
(Assessment year : 2022-23)

BhishuMahashraman Foundation 301, The Ambience Court, Sector 19D, Plot No.2, Vashi, Thane PAN : AAHAB2421N	vs	Commissioner of Income-tax (Exemptions), Mumbai, Room No.601, 6 th Floor, Cumballa Hill, MTNL, TE Building, Pedder Road, DrGopalraoDeshmukh Marg, Cumballa Hill, Mumbai-400 026
APPELLANT		RESPONDENT

Assessee represented by	Shri Devendra Jain, Adv
Department represented by	Dr. Mahesh Akhade, CIT DR

Date of hearing	06/03/2023
Date of pronouncement	27/03/2023

O R D E R

Per: S.Rifaur Rahman (AM):

These appeals have been filed by the assessee against the order dated 25/09/2022 passed by the Commissioner of Income-tax (Exemptions), Mumbai [hereinafter 'CIT(E)] for the assessment year 2022-23.

2. These appeals were filed by the assessee with a delay of 22 days and assessee filed an affidavit in this regard and submitted that the Ld.CIT(E) has rejected the application for registration under section 12AB and under section 10(23C) of the Income-tax Act, 1961 and also another application filed by the assessee for registration under section 80G on 25/09/2022 and assessee had to file these appeals within 60 days from the date of receipt of this order, i.e. on 24/11/2022. However, assessee filed these appeals with the delay of 22 days. Since assessee has submitted that due to unavoidable personal reasons, he had to travel out of the town, therefore, there is delay in filing these appeals.

3. After considering the affidavit, we are inclined to condone the delay in filing both the appeals.

4. The relevant facts are, the assessee has filed the applications for registration under section 12AB and under section 80G on 31/03/2020 and the Ld.AR brought to our notice page 1 of the paper book wherein show cause notice dated 21/09/2022 were issued to the assessee and assessee has filed the relevant information on 26/09/2022 as detailed below:

1. Application in form 10AB
2. Pancard on BhikhsuMahashraman Foundation
3. Self Certified Copy of Registration Certificate of Trust under Bombay Public Trust Act, 1950
4. Self Certified Copy of Registration Certificate of Trust under Society Registration Act, 1860
5. Self certified copy of Trust Deed
6. List of Trustees

7. Pancard of Trustee
8. Provisional Registration Certificate u/s 12A in form 10AC

5. It is brought to our notice by the Ld.AR that the impugned order passed by Ld.CIT(E) dated 25/09/2022 which is on Sunday. He submitted that the relevant order was passed on the holiday with the observation that the assessee has not filed the relevant information as per relevant Rule 17A and as per Rule assessee is supposed to file all the relevant information alongwith the application. He submitted that the assessee has filed the same alongwith the application as well as assessee has filed on the next day i.e. 26/09/2020 the relevant information. Accordingly he prayed that the issue may be remitted back to the Ld.CIT(E) to consider the same on merit.

6. On the other hand, the Ld.DR reiterated that all the details relevant for seeking registration has to be filed alongwith application as per law. He brought to our notice the findings of the Ld.CIT(E) in para 4 of the order and at the same time, he also of the opinion that this issue may be remitted back to the file of Ld.CIT(E).

7. Considered the rival submissions and perused the materials on record. We observe that as per rule assessee has to file the relevant information alongwith the application and even there is failure on the part of the assessee. In our view, it is only a procedural lapse for the assessee to file the same at the time of hearing. Therefore, it is only a procedural lapse. In this case assessee has filed the relevant information on 26/09/2020 and Ld.CIT(E) has passed the order one day prior to the submission of the details by the assessee. Therefore, the authorities

should give proper opportunities for processing the application for registration not in a hurry to complete the proceedings. Accordingly, we direct the Ld CIT(E) to consider the various submissions of the assessee for registration both under section 12AB as well as under section 10(23C) and also under section 80G of the Act after giving proper opportunity of being heard to the assessee. Accordingly appeals filed by the assessee are allowed for statistical purpose.

8. In the result, appeals filed by the assessee are allowed.

Order pronounced in the open court on 27th March, 2023.

Sd/-

sd/-

(AMIT SHUKLA)

(S.RIFAUH RAHMAN)

JUDICIAL MEMBER

ACCOUNTANT MEMBER

Mumbai, Dt : 27 March, 2023

Pavanan

प्रतिलिपिअग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/ The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त (□) /The CIT(A)-
4. आयकरआयुक्त CIT
5. विभागीयप्रतिनिधि, आय.अपी.अधि. , मुंबई/DR,
ITAT, Mumbai
6. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt.Registrar)
ITAT, Mumbai