

IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER &
SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 3228/Mum/2022
(A.Y: 2022-23)

Dr. Shivajirao Jondhale Research Foundation, Mahatma Phule Road, Kalyan, Vishnunagar S.O, Thane-421202 Maharashtra.	Vs.	CIT (Exemption) No. 322, 3 rd Floor, ITO, PMT, Bldg, Shankar Seth Road, Pune-411037 Maharashtra.
PAN/GIR No. : AADTD6635R		
Appellant	..	Respondent

Appellant by :	Mr.Tanzil R Padvekar.AR
Respondent by :	Ms.Neerja Sharma.DR

Date of Hearing	15.02.2023
Date of Pronouncement	17.02.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Exemptions), Pune passed u/sec12AB(1)(b) of the Act dated 27.10.2012. The assessee has raised the following grounds of appeal:

1. *Considering the facts and circumstances of the case and in law, the Commissioner of Income-tax Exemption, Pune has erred in not granting registration to the*

Appellant under section 12A/12AB of the Income-tax Act, 1961 ("the Act").

2. Considering the facts and circumstances of the case and in law, the Commissioner of Income-tax Exemption, Pune while examining the application under Section 12A / 12AB of the Act erred in rejecting the application filed by the Appellant under section 12A(1)(ac) on the ground that Appellant has not commenced any charitable activities.

3. Considering the facts and circumstances of the case and in law, the Commissioner of Income-Tax, Exemption failed to appreciate the fact that the Appellant has not been provided with reasonable opportunity of being head as mandated by section 12AB(1)(b) of the Act and hence the impugned order is void ab initio and is liable to be quashed / set aside.

4. Considering the facts and circumstances of the case and in law, the order has been passed by Commissioner of Income-tax Exemption, Pune is erroneous as the same is passed by authority which did not have jurisdiction over the Appellant.

5. The Appellant craves leave to add to, alter or amend, the above Grounds of Appeal as and when advised.

2. The brief facts of the case that the assessee is a trust registered on 3-3-2020 with the Charity Commissioner Thane and undertaking education and charitable activities. The assessee has obtained the provisional registration u/s 12A(1)(ac)(vi) of the Act. Subsequently as per amendment provision u/s 12AB

of the Act the assessee for the purpose of permanent registration uploaded e-application in Form 10AB dated 27.04.2022 and the same was rejected by the CIT(E). Aggrieved by the order of the CIT(E), the assessee has filed appeal before the Hon'ble Tribunal.

3. At the time of hearing, the Ld.AR submitted that CIT(E) has erred in not considering the details filed in the application for registration and compliance to e-notice issued on the ITBA portal and has not provided reasonable opportunity of hearing and rejected the applications. The Ld.AR substantiated the submissions with the details and prayed for allowing the appeal. Contra, the Ld.DR supported the order of the CIT(E).

4. We have heard the rival submissions and perused the material available on record. The assessee has filed the application before the CIT(E) for permanent registration under section 12AA of the Act, whereas the CIT(E) in course of hearing proceedings has issued e-notice on the assessee through ITBA portal for certain clarifications and additional information to verify the genuineness of the activities of the trust. Since there was no response to the notice in spite of

providing sufficient opportunities to the assessee, the CIT(E) has rejected the application. Therefore considering, the facts, submissions and the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences and information. Accordingly, set aside the impugned order and direct the CIT(E) to denovo consider the assessee trust application as per the law and we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 17.02.2023.

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 17.02.2023

KRK, PS

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

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

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//()

1.

(Asst. Registrar)
ITAT, Mumbai