

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 3105/Mum/2022  
(Assessment Year: 2022-23)  
&  
ITA No. 3106/Mum/2022  
(Assessment Year: 2022-23)**

Shree Laxmi Venkataramana Mandir Trust, Laxmi Complex, Vartak Nagar, Pokhran Road No.1, Thane (W)-400606. Maharashtra.	<b>बनाम/ Vs.</b>	CIT (Exemption) Room No. 322, 3 <sup>rd</sup> Floor, Income Tax Office, PMT Building, Shankar Seth Road, Pune-411037. Maharashtra.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAHTS5490B</b>		
(□ पीलार्थी / <b>Appellant</b> )	..	(प्रत्यर्थी / <b>Respondent</b> )

□ पीलार्थी ओर से / <b>Appellant by</b> :	Mr.Prakash Marathe.AR
प्रत्यर्थी की ओर से/ <b>Respondent by</b> :	Mr.KishorDhule CIT-DR. Ms.Neerja Sharma.DR

सुनवाई की तारीख / <b>Date of Hearing</b>	07/02/2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	14/02/2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE - JM:**

These are the two appeals filed by the assessee against the separate orders of Commissioner of Income Tax (Exemption), Pune [for short ‘CIT(E)’] passed u/sec12AB(1)(b)(ii)(B) of the Act dated 29-09-2022 & U/sec12AB rws 80G(5)(iii) of the Act dated 30-09-2022.

2. Since, the appeals have common and identical issues. For the sake of convenience are clubbed, heard and a consolidated order is passed.

In ITA No.3105/Mum/2022 the assessee has raised the following grounds of appeal

*“1 Order passed by the Learned Commissioner of Income-Tax, Exemption, Pune U/s 12AB(1)(b)(ii)(B) dated 29/09/2022 [DIN: ITBA/EXM/F/EXM45/2022-23/1046100178(1)] is Bad in law as (a) it seems that the Judicial Mind has not been applied, (b) the Proper Reasonable Opportunity of being Heard has not been given & (c) Rejected only for the want of Note on the Activities of the Trust or Rebutting the same for its compliance and therefore the aforesaid Original Order passed may please be restored.”*

In ITA No. 3106/Mum/2022 the assessee has raised the following grounds of appeal:

*“1. Order passed by the Learned Commissioner of Income-Tax, Exemption, Pune U/s 12AB U/s 80G(5)(iii) dated 30/09/2022[DIN:ITBA/EXM/F/EXM45/2022-23/1046145010(3)] is Bad in law as (a) it seems that the Judicial Mind has not been applied, (b) the Proper Reasonable Opportunity of being Heard has not been given & (c) Rejected only for the want of Note on the Activities of the Trust or Rebutting the same for its compliance and therefore the aforesaid Original Order passed may please be restored.”*

3. The brief facts of the case are that the assessee is a Trust registered under Mumbai Public Trust Act, 1950 with Registration No. A-1100 Thane dated 08.08.1999 and undertaking basic religious & charitable activities. The assessee has obtained provisional registration certificate under section 12A (1)(ac)(vi) & U/sec 80G of the Income Tax Act, 1961 dated 31-08-2021. Subsequently, as per the amended, provisions of section 12AB r.w.s 80G(5)(iii) of the Act, The assessee for the purpose of permanent registration uploaded e-application in Form.No10AB dated 31-3-2022 & 31-03-2022 and the same was rejected by the CIT(E). Aggrieved by the CIT(E) order, the assessee has filed the appeal before the Honble Tribunal.

4. At the time of hearing, the Ld.AR submitted that CIT(E) has erred in not considering the details filed in 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 factual paper book and prayed for allowing the appeal. Contra, the Ld.DR supported the order of the CIT(E).

5. 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 and 80G of the Act, whereas the

CIT(E) in course of hearing proceedings has issued e-notices 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 notices in spite of providing sufficient opportunities to the assessee, the CIT(E) has rejected the applications. 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 applications as per the law and we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 14.02.2023.

Sd/-

(B.R. BASKARAN)  
**ACCOUNTANT MEMBER**  
Mumbai, Dated 14/02/2022  
SK, Sr. PS

Sd/-

(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

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.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai