



॥ आयकर अपीलीय न्यायाधिकरण, पुणे "ए" न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "A" BENCH, PUNE

BEFORE HON'BLE SHRI S.S. GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 127/PUN/2023

The Nashik Division Postal Club, Nashik

Kanhere Wadi, Nashik - 422001

PAN:AADTT0524B

..... अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax Officer

Exemption, Pune.

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : None

Revenue by : Shri B. Koteswara Rao

सुनवाई की तारीख / Date of conclusive Hearing : 28/04/2023

घोषणा की तारीख / Date of Pronouncement : 28/04/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

The present appeal is assailed against the DIN: ITBA/EXM/F/EXM45/2022-23/1047741858(1) an order of refusal to grant 12AB registration passed u/s 12A(1)(ac)(vi) of the Income-tax Act, 1961 [for short "**the Act**"] by the Commissioner of Income Tax (Exemption), Pune [for short "**CIT(E)**"] dt. 30/11/2022.



2. We have heard the rival contentions of both the parties; and subject to the provisions of rule 18 of **“ITAT Rules”**, perused the material placed on record, and we note that; the appellant has e-filed an application in Form No 10AB on 04/05/2022 seeking grant of registration u/s 12AB under the category of charitable trust / institution. The Ld. CIT(E) in-order to verify the objects, activities and to ascertain the fulfilment of conditions for granting registration u/s 12AB of the Act, was put the appellant to a notice dt. 02/09/2022 thereby calling upon additional documents. Perusing the Form 10AB, the Ld. CIT(E) without further notice has rejected the application in the event of failure to adduce the sufficient information and documents necessary for the purpose. Aggrieved thereby, the appellant is in appeal alleging the action of Ld. CIT(E) as *erroneous*.

3. Seemingly, the preliminary submission made alongwith the application u/s 12A(1)(ac) did not productively prove the eligibility and claim of the appellant for grant of approval u/s 12AB of the Act, as



a consequence the Ld. CIT(E) **without further opportunity to the appellant** rejected the application in violation of principle of natural justice as commanded by **proviso** to section 12AA(1)(b)(ii) of the Act, thus action of the Ld. CIT(E) suffered from sufficiency of reasonable opportunity to the appellant to refute the rejection vis-à-vis to comply with the requirements sought. It shall be worthy to underlined that the opportunity of being heard should be real, reasonable and effective and same should not be empty formalities, it should not be a paper opportunity, the doctrine of natural justice is a facet of fair play in action and no person shall be saddled with a liability without being heard.

4. Thus for the aforesaid reason, we without commenting on the merits of the case, deem fit to remand the matter back to the file of Ld. CIT(E) for according **reasonable & effective three opportunities** to refute the rejection vis-à-vis to comply with the requirements sought.



5. We also direct the appellant to comply with the requirements of notice in this regarding by adducing necessary evidentiary material including records without seeking unreasoned adjournment.

6. Resultantly, the appeal of the appellant is ALLOWED FOR STATISTICAL PURPOSE.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Friday 28th day of April, 2023.

-S/d-

S. S. GODARA
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 01st day of May, 2023.

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

1. अपीलार्थी / The Appellant.
 3. The Pr. CIT, Pune
 5. DR, ITAT, Pune "A" Bench, Pune
- Ashwini

2. प्रत्यर्थी / The Respondent.
4. The Pr. CIT(E), Pune
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.