

अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्रीमहावीर 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.: **1028/CHNY/2022**

निर्धारण वर्ष /Assessment Year: 2022-23

M/s. Macbara Trust,
Rep. by Managing Trustee
Shri M. Mohamed Shajahan,
9/172, Maraikayar Street,
Mandapam,
Ramanathapuram Dist, - 623 518.

The CIT (Exemption),
v. Chennai.

PAN: AADTM 1500G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri K. Meenakshi Sundaram, ITP
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 16.05.2023

घोषणा की तारीख/Date of Pronouncement

: 16.05.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Exemption), Chennai in Application No.CIT(Exemption),Chennai/2022-23/12AA/10529 dated 29.09.2022.

2. The only issue in this appeal of assessee is as regards to the order of CIT(Exemption), Chennai rejecting the assessee's application filed in Form No.10AB u/s.12(1)(ac)(iii) of the Act seeking registration u/s.12AB of the Act ex-parte and without providing reasonable opportunity of being heard to the assessee in violation of principles of natural justice. For this assessee has raised various grounds which are argumentative, exhaustive and on merits also, hence need not be reproduced.

3. Brief facts are that the assessee filed online application in Form No.10AB u/s.12(1)(ac)(iii) of the Act on 30.03.2022 for granting of registration u/s.12AB of the Act. The CIT(E), Chennai posted the case for processing application u/s.12AB of the Act, first on 29.08.2022 but nobody attended or furnished any information. Again a show-cause notice dated 03.09.2022 was issued fixing the hearing on 08.09.2022. Nobody attended. Again the CIT(E) issued show cause notice dated 26.09.2022 fixing the matter on 28.09.2022 but nobody attended. Consequently the CIT(E) rejected the application without deliberating on merits vide order dated 29.09.2022. Aggrieved assessee is in appeal before Tribunal against rejection ex-parte.

4. Before us, the Id.AR for the assessee Shri K. Meenakshi Sundaram, ITP only pleaded mercy that one opportunity be provided and he undertook to present his case on the first date of hearing with all the documentary evidences in support of claim of registration u/s.12AB of the Act. When this was pointed out to Id.Senior DR, he contested the setting aside for the reason that despite numerous opportunities the assessee has not presented and hence, what is the guarantee this time assessee will present before CIT(E). But when it was pointed out to him that even the order of CIT(E) is not on merits because whatever information available in Form No.10B, the CIT(E) could have considered. As there is a failure on the part of the assessee to represent its case and CIT(E)'s order is not on merits, we set aside the order of CIT(E) and restore the matter back to the file of CIT(E) for allowing one more opportunity to the assessee to file the details and evidences and prove its case of claim of registration u/s.12AB of the Act. In term of the above, the order of CIT(E) is set aside and matter restored back to his file for fresh adjudication. The appeal of the assessee is allowed 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 16th May, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 16th May, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.