

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.220/PUN/2023

Shree Datta Bhakta Mandal,
305/4610/161/12, Talathi Colony,
Dindori Road, Near Meri,
Nashik-422004

PAN : AACTD3742L

.....अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax,
(Exemption), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Shishir Srivastava

सुनवाई की तारीख / Date of Hearing : 12-04-2023
घोषणा की तारीख / Date of Pronouncement : 29-05-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 29-11-2022 passed by the Commissioner of Income Tax (Exemption), Pune.

2. The assessee raised four grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(Exemption) justified in rejecting the application for registration u/s. 12AA of the Act ex-parte of the assessee.

3. The ld. AR, Smt. Deepa Khare submits that in response to the notice issued through ITBA portal on 25-08-2022, the assessee submitted a note on activities and expenditure statement. According to the CIT(Exemption) there was no such asset in the nature of temple is appearing in the balance sheet of the assessee, as the assessee trust came into existence on 10-07-2019, held no substantive evidence in this regard filed by the assessee, resultantly, rejected the application for grant of registration. The ld. AR undertaken that the assessee is ready to produce all the relevant evidences in support of its claim and prayed to remand the matter to the file of CIT(Exemption).

4. The ld. DR, Shri Shishir Srivastava vehemently opposed in remanding the issue to the file of CIT(Exemption). He drew our attention to page 3 of the impugned order and argued that the very existence of the temple is in doubt, as the notice issued by the CIT(Exemption) returned and un-served by the postal authorities with a remark "Not on given address". He submits that no leniency could be given to the assessee as the non-service of notice itself shows non-existence of the temple and no purpose will serve in remanding the issue to the file of CIT(Exemption). He vehemently prayed to dismiss the appeal filed by the assessee.

5. After hearing both the parties, we note that the assessee made compliances in response to the notice dated 25-08-2022 which is evident from para 3 of the impugned order which clearly establishes that furnishing of note on activities and also accounts of the assessee. Further, the CIT(Exemption) also formed an opinion that there was no immovable property in the status of temple is reflected in the balance sheet and he

very much doubted the very existence of the temple as well as the assessee trust. During the course of arguments, the ld. AR submitted the non-service of notice does not indicate the non-existence of the temple and given an opportunity the assessee will substantiate its claim with the supporting evidences for getting registration u/s. 12AA of the Act. On perusal of paras 3 and 3.1 of the impugned order which clearly shows that there was no material evidences brought on record by the assessee in support of its claim which indicates that there was no substantive evidence in support of getting registration u/s. 12AA of the Act. Therefore, we are of the opinion that the assessee shall be afforded an opportunity to prosecute its case and we deem it proper, in the interest of justice to remand the matter to the file of CIT(Exemption) for its fresh consideration. The assessee is liberty to file evidences, if any, in support of its claim. The CIT(Exemption) shall examine the same and pass order, in accordance with law. Thus, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 29th May, 2023.

Sd/-
(Dr. Dipak P. Ripote)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 29th May, 2023.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Exemption), Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune