



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



**IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "B" BENCH, PUNE
BEFORE HON'BLE SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND**

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No. 90/PUN/2023

Senior Citizen Foundation
16, Vidyanagar Society,
Mehsana Chansma Rd.,
Mehsana-384002, Gujarat.
PAN:AAITS7253H

..... अपीलार्थी / **Appellant**

बनाम / V/s.

Commissioner of Income Tax Officer
Exemption, Pune.

.....प्रत्यर्थी / **Respondent**

द्वारा / Appearances

Assessee by : None

Revenue by : Shri Sardar Singh Meena

सुनवाई की तारीख / Date of conclusive Hearing : 01/06/2023

घोषणा की तारीख / Date of Pronouncement : 01/06/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

Against the order of refusal to grant registration passed u/s 12AB of the Income-tax Act, 1961 [for short 'the Act'] by the Commissioner of Income Tax (Exemption), Pune [for short 'CIT(E)'] dt. 30/09/2022, the appellant assessee filed this present appeal.



2. In the absence of able assistance of appellant, we have proceeded u/s rule 24 of the ITAT-Rules, 1963 *ex-parte* and heard the learned departmental representative; and subject to the provisions of rule 18 of ITAT Rules, perused the material placed on record.

3. We note the brief facts emanating are such that;

3.1 The appellant assessee has e-filed an application in Form No 10AB u/s 12A(1)(ac)(iii) on 31/03/2022 seeking grant of registration under the category of charitable trust / institution.

3.2 The Ld. CIT(E) in-order to verify the objects, activities and to ascertain the fulfilment of conditions for granting registration was put the appellant to notices dt. 18/07/2022 & 18/09/2022 requesting certain additional information vis-à-vis certain clarification, which were remained unattended by the appellant assessee.



3.3 Due to non-compliance, thus Ld. CIT(E) without further notice, has rejected the application iterating the absence tangible material to vouch engagement of activities as to whether they are in line with the object of the trust / institution.

4. The present challenge of the appellant foundation is considered and after vouching the facts of the case, it transpired that, the preliminary submission of the appellant did not productively prove its eligibility and claim for grant of approval for 12AB, 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 underline 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. 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 opportunity to refute the rejection *vis-à-vis* to comply with the requirements.

5. Resultantly, the appeal is ALLOWED FOR STATISTICAL PURPOSE in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Thursday 01st day of June, 2023.

-S/d-

S. S. VISWANETHRA RAVI
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

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

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

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|-------------------------|------------------------------|--|
| 1. The Appellant. | 2. The Respondent. | 3. The Pr. CIT, Pune |
| 4. The Pr. CIT(E), Pune | 5. DR, ITAT, "B" Bench, Pune | 6. गार्डफ़ाइल / Guard File |
| | | आदेशानुसार / By Order, |
| | | वरिष्ठ निजी सचिव / Sr. Private Secretary |
| | | आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune. |