

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRIB.M. BIYANI, ACCOUNTANT MEMBER
ITA No.72/Ind/2023

Mandsaur Sewa Bharti Samiti, Samarpan Bhawan, Keshav Nagar, Behind Roadways Depot, Mandsaur	<u>बनाम/</u> Vs.	CIT (Exemption) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
PAN: AABAM7015K		
Assesseeby	Shri Pankaj Mongra, C.A.	
Revenue by	Shri P.K. Mishra, CIT DR	
Date of Hearing	25.05.2023	
Date of Pronouncement	01.06.2023	

आदेश/ O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order dated 24.08.2022 passed by learned Commissioner of Income-Tax (Exemption), Bhopal ["Ld. CIT(E)"] by which the assessee's application in Form No. 10AB dated 28.03.2022 for grant of final registration u/s 12AA of Income-tax Act, 1961 has been rejected, the assessee has filed this appeal on the grounds mentioned in Appeal Memo.

2. Heard the learned Representatives of both sides at length and case-records perused.

3. The Registry has informed that the present appeal is filed after a delay of 135 days and, therefore, time barred. The Ld. AR submitted that the assessee is a society engaged in charitable objects for the welfare of public. The assessee has filed an application seeking condonation of delay supported by an affidavit duly stamped and notarized. Drawing our attention to the said affidavit, the Ld. AR submitted that there was a change in the Chairman of the Society and the impugned order was actually served by the Department on the e-mail address of past Chairman given at the time of filing of application. Thereafter, the impugned order dated 24.08.2022 passed by CIT(E) by which the assessee's application was rejected, was not served physically; it was served only on e-mail address of past Chairman. Subsequently, after lapse of time when the Income-tax counsel of assessee enquired from assessee about the status of registration, the assessee in turn enquired from past Chairman and then only the assessee came to know about its application having been rejected by CIT(E). Immediately thereafter, the assessee brought it to the notice of Income-tax counsel who guided for filing of appeal before the ITAT. Ultimately, the appeal could be filed before ITAT on 07.03.2023. Ld. AR submitted that the assessee is a charitable institution being managed by Chairman who also changes from time to time and therefore the delay in filing of appeal is purely because of change in Chairman; there is no deliberate attempt or malafide intention on the part of assessee. Ld. AR submitted that the assessee's case is meritorious and the grant of registration is very essential for availing exemption under income-tax which would in turn enable the assessee to carry on its charitable

activities smoothly for the welfare of public at large. Therefore, the delay of 135 days should be condoned by taking a judicious view. We confronted Ld. DR who did not show any objection. Taking a judicious view, we condone the delay and admit this appeal; accordingly proceed to dispose of by this order.

4. On the merits of case, Ld. AR drew our attention to the impugned order dated 24.08.2022 passed by CIT(E) and submitted that vide notice dated 03.08.2022, the CIT(E) fixed the assessee's registration application for hearing on 16.08.2022. On 16.08.2022, the assessee filed an application requesting for grant of adjournment upto 31.08.2022, a copy of the acknowledgment downloaded from ITBA Portal of Income-tax Department is filed at Page No. 22 of Paper-Book. However, the Ld. CIT(E) did not take cognizance of assessee's request and passed impugned order on 24.08.2022 rejecting the registration. Ld. AR submitted that the CIT(A) was not justified in passing order on 24.08.2022 ignoring/not considering the adjournment request filed by assessee. Therefore, the order of CIT(E) must be quashed and the case should be remanded back to him for a fresh adjudication.

5. Ld. DR dutifully supported the impugned order but, however, could not contradict the submission of Ld. AR.

6. After careful consideration, we find that the Ld.CIT(E) has passed impugned order on 24.08.2022 despite the existence of assessee's adjournment request uptill 31.08.2022 on ITBA Portal. Further, it is also not a case of department that the CIT(E) denied the adjournment sought by

assessee. Therefore, it is a case where the CIT(E) has passed order which is patently wrong and illegal. In this circumstance, we are inclined to accept the prayer of assessee to quash the impugned order and remand this case back to Ld. CIT(E) for fresh adjudication. We order accordingly. We also direct the assessee to participate in the proceeding and do not seek unnecessary adjournments.

7. **Resultantly, this appeal is allowed for statistical purposes.**

Order pronounced in the open court on 01/06/2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 01.06.2023

CPU/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore*