

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 105/Asr/2023
Assessment Year: 2023-24

GST & TAXATION BAR, C/o Parikshit Aggarwal, Chartered Accountant H.No. 3035, Sector 27D, Chandigarh	Vs.	CIT (Exemption), Chandigarh
PAN: AADAG0859PO		
APPELLANT		RESPONDENT

I.T.A. No. 106/Asr/2023
Assessment Year: 2023-24

Chartered Accountant Association, C/o Parikshit Aggarwal, Chartered Accountant H.No. 3035, Sector 27D, Chandigarh	Vs.	CIT (Exemption), Chandigarh
PAN: AADAC9242Q		
APPELLANT		RESPONDENT

Assessee by : Shri Parikshit Aggarwal, CA
Revenue by : Shri Hitendra Bhauraoji Ninawe, CIT DR

Date of Hearing : 12/06/2023
Date of Pronouncement : 15/06/2023

ORDER

Per Dr. M. L. Meena, AM:

Both the above appeals are filed by the Assessee against the separate orders even dt. 16/01/2023 passed by the Ld. CIT(E), Chandigarh challenging therein rejection of application for Registration under 12AB of the Act without affording reasonable opportunity of being heard to the assessee.

2. During the course of hearing it was noticed that both the above appeals of the assessee are barred by limitation by 26 days. It is explained by the assessee that the delay is occurred due to lack of knowledge of the assessee and the orders were not served physically.

2.1 Ld. AR stated that it was only at the time of routine visit of the Department portal, the assessee has observed some outstanding demand against its name for the subject assessment year. Immediately the assessee came into action and downloaded the copy of the order and prepared the appeal in short period of 26 days. Accordingly, he prayed for condonation of short delay of 26 days.

2.2 Considering the short period of 26 days of delay in filing the appeal, the delay is condoned and appeal is admitted for adjudication on merits.

3. At the outset the Ld. Counsel for the Assessee submitted that the Ld. CIT(E) rejected the application of the assessee filed under section 12A(1)(ac)(iii) of the Act without granting sufficient opportunity of being heard and passed order in summary manner without adjudicating the issue on merits of the case.

3.1 The Counsel further submitted that the Ld. CIT(E) merely stated that the assessee was granted three opportunities but no reasonable submissions has been filed in response to the letter issued by his office. In absence of any submission from the assessee, it is not possible to ascertain object and the activity carried out by the assessee. Accordingly, the application filed by both the assesseees for Registration under section 12AB of the Act were rejected by the Ld. CIT(E).

3.2 The Ld. AR contended that all the three notices issued by the Ld. CIT(E) were issued on the IT Portal which were not received physically and could not be downloaded from the portal due to technical glitch, so as to enable to make the requisite compliance in time before the Ld. CIT(E). He further submitted that the assesseees should be granted one more opportunity and it

undertake to cooperate in the fresh proceedings before the Ld. CIT(E) in adjudication of the matter on merits of the case. He prayed that the matter may be remanded to the Ld. CIT(E), Chandigarh, accordingly.

4. Per contra, the Ld. DR stands by the impugned order and contended that the CIT(E) has granted three opportunities to the assessee. However, he has no objection in restoring the matter back to the file of the Ld. Cit(E) for fresh adjudication in view of the principle of natural justice.

5. We have heard the rival contention, material on record and impugned order. Admittedly, the Ld. CIT(E) has passed the order exparte qua the assessee thereby rejecting the application for Registration under section 12AB of the Act, in absence of submission from the assessee on the object and activity carried out by them. It is seen that the Ld. CIT(E) has not adjudicated the appeal on merit of the case that whether the activity of the assessee were carried out in consonance with the object of the assessee trust. It is noted that the assessee could not download the notices issued by the CIT(E) from the Department Portal and the same could not be delivered to them physically. In the absence of the availability of the copy of the notice issued by the office of the CIT(E) the assessee has genuine difficulty in furnishing the required information without having knowledge of what was the information called for.

6. The Hon'ble Delh High Court in the case of Bharat Aluminium Company Limited Vs. Union of India (2022) 134 Taxmann.com 187 has held that the assessee has a vested right to personal hearing and the same has to be given, if an assessee asked for it. The right to personal hearing cannot depend upon the facts of each case.

7. Under the facts and circumstances of the case, we deem it fit to restore the matter back to the file of the Ld. CIT(E) to adjudicate the application of both the appellant for grant of Registration under section 12AB of the Act afresh

after granting sufficient opportunity of being heard to the assessee. At the same time, the assessee is directed to update its email address on the Department portal and to cooperate in the fresh proceedings in adjudication of the matter for grant of Registration under section 12AB before the Ld. CIT(E). Accordingly, both the appeals of the assessee are restore back to the file of the Ld. CIT(E).

6. In the result, both the above appeals of the Assessee's are allowed for statistical purposes.

Order pronounced in the open court on 15/06/2023.

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

A.G

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order