

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES “A” :: PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL
MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.481 & 482/PUN/2023

निर्धारणवर्ष / Assessment Year : N.A.

Kunashni Foundation, S.No.74A, Wing C-9, Eastern Court, B.T.Kawade Road, Ghorpadi Bazar, Pune – 411001. PAN: AAICK 7204 P	Vs	The Commissioner of Income Tax(Exemption), Pune.
Appellant / Revenue		Respondent / Assessee

Assessee by	Mr. Neelesh Khandelwal – AR
Revenue by	Shri Keyur Patel – CIT(DR)
Date of hearing	09/06/2023
Date of pronouncement	12/06/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These two appeals are filed by the Assessee are directed against the separate orders of Id.Commissioner of Income Tax(Exemption), Pune both dated 31.03.2023 under section 80G and 12A respectively. The assessee in ITA No.482/PUN/2023 has raised following grounds of appeal :

“1. On facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the Hon’ble Commissioner of Income Tax Exemptions has cancelled the registration granted u/s 12AB r.w.s 12A(l)(ac)(vi) without granting proper opportunity

of being heard. The Appellant be granted just and proper relief in this respect.

2. *On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the order of the Hon'ble Commissioner of Income Tax Exemptions in rejecting the application filed by the Appellant in Form 10AB u/s 12A(l)(ac)(iii) of the Income tax act, 1961 and cancellation of the registration granted u/s 12AB r.w.s 12A(l)(ac)(vi) is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration should have been granted. Just and proper relief be granted to the Appellant in this respect.*

3. *On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the Hon'ble Commissioner of Income Tax Exemptions cancelled the registration granted on 31/08/2021 u/s 12AB r.w.s 12A(l)(ac)(vi) is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration should be restored. Just and proper relief be granted to the Appellant in this respect.*

4. *The Appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing."*

ITA No.482/PUN/2023 – 12A :

Submission of Id.Authorised Representative (Ld.AR) :

2. The Id.AR of the Assessee submitted that Kunashini

Foundation is Section 8 Company, formed in 2021. During the proceedings, assessee has submitted all the details as called for to the ld.CIT(E). The ld.CIT(E) has rejected the application without considering the details. The ld.AR read out the note on activity, which is at page no.85 of the paper book.

Submission of ld.DR :

3. The ld.DR relied on the orders of the ld.CIT(E).

Findings & Analysis :

4. We have heard both the parties and perused the records. On perusal of the order passed by the ld.CIT(E) under section 12A, it is observed that the ld.CIT(E) has rejected assessee's application only on one ground that credible evidence regarding activities was not filed. In para 2.3 of the said order is reproduced as under :

“2.3 On verification of the details submitted by the assessee in response to the said notice and the documents submitted along with the application, it is seen that no credible evidence is submitted to establish the genuineness of activities. Only 3-4 bills of small amount are furnished. No evidences in the form of cogent evidences such as photographs, videos, links, media reports for undertaking the activities etc. are furnished.”

5. However, during the proceedings the ld.AR submitted a paper book containing 112 pages. The ld.AR had submitted that all these papers were filed before the ld.CIT(E). As per MoA, the objects of the assessee are as under :

3. (A) The Objects for which the Company is established are:-

- i. To provide, promote, encourage, protect, support and ensure the well-being of the animals, taking care of animals (both pet and homeless) by the way of vet consultations, sterilization, feeding, onsite medical care, hospitalization, post operative care & lodging including being able to create a rescue home for stray animals, treating injured/ill animals and their rehabilitation. To promote maintenance of Animal Shelter and water troughs, maintaining veterinary hospitals and animal clinics and mobile clinic for old, useless and stray animals including pets. To promote and encourage greater awareness of animal rights amongst the people in general, to prevent cruelty and secure the welfare of animals throughout India, alleviate animal suffering and to educate and encourage people so that they may realize their responsibility as humans to protect animals. To synchronize the operations with NGOs and experts, other voluntary agencies and associations, including local bodies as well as the State and Central governments for the promotion of projects and programmes designed for animal healthcare.

5.1 It is observed that as per note on activity, assessee is providing medical facilities to street animals. It is claimed that assessee also organises food for these street animals. Assessee has filed copy of a receipt issued by TULPULE'S PET CARE CLINIC, Address: Clover Heights, Shop Nos.6 & 7, Salunke Vihar Road, Opp. Salunke Vihar Road, Wanworie, Pune – 411040. Assessee has also filed copies of some more bills & explained that Assessee had carried out charitable activities.

6. However, the Id.CIT(E) has neither discussed about the objects of the foundation nor nature of activities carried out by the foundation. In these facts and circumstances of the case, the order of Id.CIT(E) is set-aside to Id.CIT(E) for denovo adjudication. The Id.CIT(E) shall provide opportunity to the assessee and assessee shall

file all the necessary details before the Id.CIT(E). Accordingly, grounds of appeal are allowed for statistical purpose.

7. In the result, appeal of the assessee is allowed for statistical purpose.

ITA No.481/PUN/2023 :

8. The assessee has raised the following grounds of appeal :

“1. On facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the Hon’ble Commissioner of Income Tax Exemptions has cancelled the registration granted under clause (iv) of first proviso to subsection (5) of section 80G without granting proper opportunity of being heard. The Appellant be granted just and proper relief in this respect.

2. On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that order of the Hon’ble Commissioner of Income Tax Exemptions rejecting the application filed by the Appellant in Form 10AB under clause (iii) of first proviso to section 80G(5) of the Income tax at, 1961 and cancelled the provisional approval u/s under clause (iv) of first proviso to sub-section (5) of section 80G is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration should have been granted. Just and proper relief be granted to the Appellant in this respect.

3. On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the Hon’ble

Commissioner of Income Tax Exemptions cancellation of the provisional approval under clause (iv) of first proviso to sub-section (5) of section 80G is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, approval should be restored. Just and proper relief be granted to the Appellant in this respect.

4. *The Appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing.”*

9. In this case, Id.CIT(E) has rejected the assessee's application for registration under section 80G on the ground that assessee is not having registration under section 12A of the Act. Since we have set-aside the order above i.e. ITA No.482/PUN/2023 under section 12A for denovo adjudication, we set-aside the order under section 80G for denovo adjudication to Id.CIT(E). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

10. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 13th June, 2023.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 13th June, 2023/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.