

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'A' BENCHES :: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos.631 & 632/PUN/2023

Dadas Hakuna Matata Foundation, Gat No.1420, Hissa No. 185, Wagholi, Vagholi S.O., Pune. PAN: AAICD 0283 B	vs	CIT (Exemption), Pune.
Appellant		Respondent

Assessee by	:	Shri Nikhil S. Pathak, Adv.
Revenue by	:	Shri Keyur Patel, CIT-DR
Date of hearing	:	06/07/2023
Date of pronouncement	:	11/07/2023

ORDER

Per Bench:

These appeals preferred by the assessee emanates from the separate orders of Commissioner of Income Tax [Exemption], Pune, each dated 30.03.2023 as per the grounds of appeal on record.

2. In ITA No.632/PUN/2023, the assessee is aggrieved for rejection of application for registration u/sec. 12AB of the Act and cancellation of provisional registration granted on 28/05/2021 u/sec. 12AB r.w.s. 12A(1)(ac)(vi) of the Act. The reasons emanating from the order of the Id. CIT(E) for non-granting of registration and cancellation of provisional registration are that, as per the initial documents submitted by the assessee, certain discrepancies were found by the Department specifically regarding the activities performed by the

applicant-trust which needed to be verified. In this regard, the assessee was asked to provide details of actual activities carried-out for the last three years along with supporting documents/evidences, which were not submitted before the Department. There were two opportunities given to the assessee to comply with the notices i.e. on 02/02/2023 and another one on 27/03/2023. Since the assessee failed to substantiate the actual charitable activities performed, based on its objects, the application for registration was rejected as well as the provisional registration u/sec. 12AB was cancelled.

3. At the time of hearing before us, Id.AR submitted that one final opportunity may be provided to represent their case on merits before the Id. CIT(E) and they would submit all details about the activities carried out as per the satisfaction of the Id. CIT(E) in compliance with sec. 12AB of the Act. Ld.DR did not have any objection, if the matter would be remanded to the file of the Id. CIT(E).

4. We are of the considered view, considering the submissions made by both the parties and the facts and circumstances of the case, that this is a threshold point where the assessee has come before the Department for seeking grant of registration of the trust. The Department always shall have the power to determine based on the documents submitted whether to grant registration or not. Before this Bench, Id.AR has submitted that they would comply with all the requirements before the Id. CIT(E) and as of now only the

opportunities have been given to the assessee, therefore, in the interest of justice, the assessee is given one final opportunity to represent its case on merits before the Id. CIT(E). In view thereof, we set aside the order of the Id. CIT(E) and remand the matter to his file for fresh adjudication as per law complying with the principles of natural justice and at the same time, we direct the assessee to be present before the Id. CIT(E) immediately on receipt of this order along with necessary documents/evidences. Issuance of notice is dispensed with. This appeal of the assessee is allowed for statistical purposes.

5. In ITA No. 631/PUN/2023, the assessee is aggrieved for non-granting of exemption u/sec. 80G of the Act. That, on perusal of the order of Id. CIT(E), it is clear and precise that since the registration u/sec. 12AB has been rejected, the assessee has not complied with the conditions as per sec. 80G(5)(i) of the Act and further various details were called for in order to ascertain the genuineness of the activities performed by the assessee, which details were not furnished by the assessee to the Department. Therefore for these reasons, the exemption u/sec. 80G was rejected and the provisional approval granted was cancelled. In this case, Id.AR prayed for one final opportunity since the registration u/sec. 12AB of the Act was rejected consequently the exemption u/sec. 80G was also denied. Therefore, Id.AR submitted that this issue may also be remanded to the file of the Id. CIT(E) for adjudication as per law. We are of the considered view

that already the issue of granting of registration u/sec. 12AB of the Act has been remanded to the file of the Id. CIT(E) and therefore for the sake of completeness, considering the facts and circumstances of the case and submissions of the parties, this issue of granting exemption u/sec. 80G should also be remanded to the file of Id. CIT(E). Therefore, in the interest of justice, we set aside the order of the Id. CIT(E) and remand the matter back to his file for adjudication as per law complying with the principles of natural justice. This appeal of the assessee is allowed for statistical purposes.

6. In the combined result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open Court on 11th July, 2023.

Sd/-
(G.D. PADMAHALI)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 11th July, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
5. The DR, ITAT, "A" Bench Pune.
6. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.