

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

BEFORE SHRI R.S. SYAL, HON. VICE PRESIDENT &
SHRI PARTHA SARATHI CHAUDHURY, HON. JUDICIAL MEMBER

ITA No.690 & 691/PUN/2023

Shri Shiv Foundation, C/o Shri Milind J. Rajore, 505, Arora Towers, Camp Pune, Pune-411 001. PAN: AANTS 3376 E	vs	CIT (Exemption), Pune.
Appellant		Respondent

Assessee by	:	Shri Kishor Phadkhe, CA
Revenue by	:	Shri Ajay Kumar Kesari, DR
Date of hearing	:	19/07/2023
Date of pronouncement	:	20/07/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

These appeals preferred by the assessee emanates from the separate orders Id. Commissioner of Income Tax (Exemption), Pune [for short, 'CIT(E)'] both dated 31.03.2023 as per the grounds of appeal on record.

2. In these appeals, the assessee-trust is aggrieved for rejection of registration u/sec. 12AB of the Act and also rejection of exemption u/sec. 80G of the Act.

3. At the outset, Id. counsel for the assessee submitted that as per the grounds of appeal in both these matters, they have raised the ground that principles of natural justice was not duly complied with by the Id.CIT(E) since sufficient opportunity was not provided to the

assessee for furnishing various details before the Department.

4. It is a case of application for registration u/sec. 12AB and application for grant of exemption u/sec. 80G of the Act. In both the cases, the requirement of the provisions for registration are that the genuineness of the activities performed by the assessee-trust has to be verified by the Id. CIT(E) along with the fact that assessee-trust is also complying with the laws prevailing at that point of time, while the trust is doing charitable activities as per its objects. Similarly, for granting of exemption u/sec. 80G of the Act, the genuineness of the activities performed by the assessee-trust and the percentage of utilization of funds for the activities as per the objects of the trust whether these are done or not has to be verified as per the satisfaction of the Id. CIT(E). It is, but natural that to examine all these facts, various details/documents are called for from the assessee and accordingly, the department authorities decide whether registration and exemption should be granted to the assessee-trust as per the said provisions of the Act. In this case, it can be seen from the orders of the Id. CIT(E) in both the matters that opportunities were given but even after filing of various details by the assessee, still certain discrepancies were there, which were not clarified later on, by the assessee. Under these circumstances, their applications were rejected. Now, before us, Id.counsel for the assessee has prayed for one final opportunity to represent their case on merits before the Id. CIT(E) and submitted that assessee shall furnish all the details as and when called

for and at the same time prayed for reasonable opportunity may be given for submission of all these documents before the Id.CIT(E). We are of the considered view that the power to grant registration and exemption under the requisite provisions of the Act is with the Department provided that the requirement of the provisions are satisfied by the assessee. In this scenario, natural justice demands one final opportunity should be given to the assessee and in view thereof, we set aside both the orders of the Id. CIT(E) and remand the matters back 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 that this being final opportunity, it should not fail to represent on merits before the Id. CIT(E) and submit relevant details/documents in order to represent their case on merits and substance on facts. That, after going through all these documentation, the Department shall take a call regarding whether it is a fit case to grant of registration u/sec.12AB and similarly grant of exemption u/sec. 80G of the Act. Accordingly, the grounds for both the appeals are allowed for statistical purposes.

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

Order pronounced in open Court on 20th July, 2023.

Sd/-
(R.S. SYAL)
VICE-PRESIDENT

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 20th July, 2023

vr/-

Copy to :

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

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.