



॥ आयकर अपीलिय न्यायाधिकरण, पुणे "बी" न्यायपीठ, पुणे में ॥



**IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "B" BENCH, PUNE
BEFORE HON'BLE SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND**

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No. 0543/PUN/2023

Suryoday Social Foundation

Flat No. 101, H.No.-1

Ashtvinayak Sadan, Kondhwa Bk.,

Pune-411048.

PAN:ABBAS9881J

..... अपीलार्थी / *Appellant*

बनाम / V/s.

Commissioner of Income Tax Officer

Exemption, Pune.

.....प्रत्यर्थी / *Respondent*

द्वारा / Appearances

Assessee by : Mr. B. B. Mane

Revenue by : Mr. Ajay Kumar Kesari

सुनवाई की तारीख / Date of conclusive Hearing : 25/07/2023

घोषणा की तारीख / Date of Pronouncement : 25/07/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

Against the order passed u/s 12AB of the Income-tax Act, 1961 [for short 'the Act'] dt. 31/03/2023, rejecting to grant regular registration by the Commissioner of Income Tax (Exemption), Pune [for short 'CIT(E)'] the appellant assessee filed the present appeal u/s 253(1)(c) of the Act.



2. We note the brief facts emanating are such that;

2.1 The appellant assessee has e-filed an application in Form No 10AB u/s 12A(1)(ac)(iii) on 15/09/2022 seeking grant of regular registration under the category of charitable trust / institution.

2.2 The Ld. CIT(E) in-order to verify the objects, activities and to ascertain the fulfilment of conditions for granting registration was put the appellant to notices dt. 23/01/2023 & 19/03/2023 requesting certain additional information vis-à-vis certain clarification, which were remained unattended by the appellant assessee.

2.3 Due to non-compliance, Ld. CIT(E) without further notice, has rejected the application and cancelled the provisional registration granted to it on 01/10/2021 iterating the absence tangible material and explanation against discrepancies noticed by him while vouching the very genuineness of activities undertaken, donation received, utilization of funds on the object of the trust etc.



3. The present challenge of the appellant foundation is considered and after vouching the facts of the case, it transpired that, the preliminary submission of the appellant did not productively prove its eligibility and claim for grant of approval for 12AB, as a consequence the Ld. CIT(E) **without further opportunity to the appellant** rejected the application in violation of principle of natural justice as commanded by the provision of section 12AB(1)(b)(ii)(B) of the Act, thus action of the Ld. CIT(E) suffered from sufficiency of reasonable opportunity to the appellant to refute the rejection vis-à-vis to comply with the requirements sought. It shall be worthy to underline that the opportunity of being heard should be real, reasonable and effective and same should not be empty formalities, it should not be a paper opportunity. The doctrine of natural justice is a facet of fair play in action and no person shall be saddled with a liability without being heard.

4. Thus for the aforestated reason, we without commenting on the merits of the case, deem fit to



remand the matter back to the file of Ld. CIT(E) for passing well-reasoned order after according effective three opportunities to the appellant foundation to refute the rejection *vis-à-vis* to comply with the discrepancies communicated. Needless the state, the appellant assessee shall comply with the direction of the registering authority without seeking unreasoned adjournment.

5. Thus, the appeal of the assessee is ALLOWED FOR STATISTICAL PURPOSE in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 25th day of July, 2023.

-S/d-

S. S. VISWANETHRA RAVI
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 25th day of July, 2023.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

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|-------------------------|------------------------------|----------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The Pr. CIT, Pune |
| 4. The Pr. CIT(E), Pune | 5. DR, ITAT, "B" Bench, Pune | 6. गार्डफ़ाइल / Guard File |
- आदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.