



॥ आयकर अपीलीय 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. 637 & 638/PUN/2023

Shri Sadguru Dada Maharaj
Sangavadekar Seva Pratishtan,
R.S.No. 697/B, Vishwapandhari,
B Ward, Opp. I.T.Park, Kolhapur.
PAN:AAITS 6440 E

..... **अपीलार्थी / Appellant**

बनाम / V/s.

Commissioner of Income Tax
Exemption, Pune.

..... **प्रत्यर्थी / Respondent**

द्वारा / Appearances

Assessee by : None

Revenue by : Shri Ajay Kumar Kesari

सुनवाई की तारीख / Date of conclusive Hearing : 27/07/2023

घोषणा की तारीख / Date of Pronouncement : 01/08/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

These two appeals of the assessee trust are directed against the separate orders of Ld. Commissioner of Income Tax (Exemption), Pune [for short 'CIT(E)'] dt. 31/03/2023 passed u/s 12AB(4) & 80G(5) of the Income-tax Act, 1961 [for short 'the Act'] rejecting to grant for 12AB registration and 80G recognition to the appellant trust.



2. Since the facts of these two appeals are similar, related and interconnected, for the purpose of convenience and brevity, these are head together for consolidated order. In the absence of appellant, after considering order-sheet entries and recording no objection of Ld. DR, we deem fit to proceed to dispose of these matters *ex-parte* on merits u/r 24 of the Income Tax Appellate Tribunal Rules, 1963.

3. Pithily stated facts borne out of the case records are; the appellant is a public trust, has e-filed its application in Form No 10AB on 30/09/2022 seeking grant of registration u/s 12AB under the category of charitable trust / institution and an application in Form 10AB on 30/09/2022 for recognition u/s 80G of the Act. The Ld. CIT(E) in-order to verify the objects, activities and to ascertain the fulfilment of conditions for granting registration u/s 12AB and recognition u/s 80G of the Act, was put the appellant to a notices from time to time, which were replied by the assessee.

4. In so far as the application for 12AB is concerned, for the want of evidences in support of activities purported to be engaged by the trust, without putting the assessee to



show-case notice, the Ld. CIT(E) has rejecting the said application cancelled the provisional registration granted u/s 12AB r.w.s. 12A(1)(ac)(iii) of the Act. Consequent to the aforestated denial to grant registration u/s 12AB of the Act, the application for 80G is also found rejected by the Ld. CIT(E) by an impugned order of even date.

5. Thus aggrieved by the aforestated rejections, the appellant is in appeal alleging the action of Ld. CIT(E) as violative of principle of *audi alteram partem*.

6. We have heard Ld. DR; and subject to the provisions of rule 18 of ITAT Rules, perused the material placed on record which suggest that, the preliminary submission of the appellant trust did failed to give plausible response to various queries raised by the registering authority and also failed to substantiate its activities with cogent evidences, as a consequence the Ld. CIT(E) without further opportunity to the appellant trust rejected the applications in violation of principle of natural justice as commanded by sub-clause (B) of section 12AB(1)(b)(ii) and by clause (ii)(b)(B) of 2nd proviso to 80G(5) of the Act r.w. proviso to rule 11AA(5) of the Income Tax Rules, 1962.



7. In our considered view, the 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 underlined 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. In the light of decision of High court of Patna in '*St. Paul's Anglo Indian Education Trust (2003) 262 ITR 377 (Pat)*' we hold that, rejection of application is unjustified as the assessee deprived of reasonable opportunity and time to produce all relevant documents to substantiate its claim for registration u/s 12AB and recognition of 80G.

8. In the light of aforestated discussion, without commenting on the merits of the case, we deem it fit to remand these matters back to the file of Ld. CIT(E) for according **two effective opportunities** to the assessee to comply with the directions or the requirements *vis-à-vis* to refute the reasons of rejection as the case may be.



9. In result, both these appeals are **ALLOWED FOR STATISTICAL PURPOSE.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 01st day of August, 2023.

-S/d-

S. S. VISWANETHRA RAVI
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 01st day of August, 2023.

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

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|-------------------------------|---------------------------------|-----------------------------|
| 1. अपीलार्थी / The Appellant. | 2. प्रत्यर्थी / 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
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.