

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

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

आयकर अपील सं. / ITA No's.483 & 484/PUN/2023

निर्धारण वर्ष / Assessment Year : -

Janmitra Seva Sangh, 1036, Deep Bunglo Chowk, Model Colony, Masulkar Colony, Pune – 411018. PAN: AADTJ 2706 M	V s	The Commissioner of Income Tax(Exemption), Pune.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Nikhil S. Pathak – AR
Revenue by	Shri Keyur Patel – CIT-DR
Date of hearing	01/08/2023
Date of pronouncement	01/08/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These two appeals filed by the same Assessee are directed against the separate orders of Id.Commissioner of Income Tax (Exemption), Pune both dated 28.02.2023 under section 80G and u/s.12AA of the Act rejecting the application filed by the assessee in Form No.10AB under section 12A(1)(ac) of the Act dated 08.08.2022.

2. The Id.CIT(E) rejected the application on the following grounds :

- i. Copy of Trust Deed is not authenticated by Charity Commissioner.
- ii. No supporting evidence for activities.
- iii. Activities cannot be considered to be genuine.
- iv. Kamdhenu Mahotsav activity is mainly religious kind of activity;
- v. No activities as per objects.

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

3. The Id.AR submitted that only for one year i.e. year of Pandemic, there were no activities. The Id.AR submitted copy of Registration Certificate issued by Charity Commissioner, Pune, dated 01.03.2019. The Id.AR submitted that said Certificate was already submitted before the Id.CIT(E). The Id.AR submitted that all the details were filed before the Id.CIT(E). However, since the Id.CIT(E) has mentioned that in the order that proper submission was not made, the assessee is willing to resubmit all the details before the Id.CIT(E). The Id.AR filed paper book containing 192 pages, which includes list of activities photographs of activities, Trust Deed, Financials etc.

The Id.AR submitted that all these documents were filed before the Id.CIT(E).

Submission of Id.Departmental Representative(Id.DR) :

4. The Id.DR for the Revenue invited our attention to page no.95 of the paper book submitted by the assessee which was list of activities claimed to have been performed by the assessee. The Id.DR submitted that the activity at S.No.3 is “Har Ghar Tiranga Programme in Kashmir” assessee had claimed that they have visited 11 villages and 11,000 households in a day under the :Har Ghar Tiranga Programme in Kashmir”.

4.1 The Id.DR invited our attention to S.No.4 “Distribution of refreshment on Diwali in Kupwad Border of Kashmir” to 95 villages and 1,000 soldiers. The Id.DR painstakingly took us to the Income and Expenditure Account submitted by the assessee and argued that apparently the expenditure is not appearing on these so-called activities performed in Kashmir in the Income and Expenditure Account. The Id.DR also submitted that when one compares the list of activities with the Income and Expenditure Account, the expenditure is not appearing in proportion to these so-called activities. Therefore, the Id.DR

submitted that assessee has actually not performed any activity, but merely submitted a list and some photographs. The Id.DR invited our attention to the photographs to demonstrate that no photograph submitted regarding the claim of the activities performed by the assessee in Kashmir Region.

5. The Id.DR also submitted that assessee has earned income under the head Training, it is not clear what kind of training was given and how providing training will be a charitable activity! The Id.DR took us through the Id.CIT(E)'s order and submitted that Id.CIT(E) has categorically mentioned in the order that no expenditure details have been provided. The Id.DR strongly supported the order of the Id.CIT(E).

Findings & Analysis :

6. We have heard both the parties and perused the records. It is observed that Id.CIT(E) has rejected the application on the ground that copy of the Trust Deed is not authenticated by Charity Commissioner. There is no provision in the Income Tax Act under which Trust Deed needs to be authenticated by Charity Commissioner. Therefore, Id.CIT(E)'s one of the ground that Trust Deed is not authenticated by Charity

Commissioner is bad in law. However, it is observed that assessee had submitted copy of the Certificate of Registration dated 01.03.2019 issued by Charity Commissioner, Pune. It has been claimed by the assessee that said Certificate was also submitted before the Id.CIT(E). However, Id.CIT(E) has not discussed anything about the Certificate issued by Charity Commissioner and erroneously gave the findings that Trust Deed is not authenticated by the Charity Commissioner.

6.1 The Id.CIT(E) has stated that no supporting evidence has been submitted. However, assessee had filed a paper book containing 192 pages which contains list of activities, photographs. A perusal of the page no.100 of the paper book, it is a photograph of "Vishwa Cow(Gow) Council" dated 24th & 25th December, 2022 which seems to have been organized by Janmitra Seva Sangh, Pune i.e. the Assessee. Assessee had claimed that this was an activity performed which is as per the objects of the Trust. Assessee also claimed that they have distributed clothes to blind students.

6.2 In these facts and circumstances, in the interest of justice, we set-aside the order of Id.CIT(E), Pune to the Id.CIT(E), Pune

for denovo adjudication after giving opportunity to the assessee. The assessee shall provide all the necessary details before the Id.CIT(E). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

7. In the result, appeal of the assessee in ITA No.484/PUN/2023 is allowed for statistical purpose.

ITA No.483/PUN/2022 :

8. The assessee's adjudication for Registration under section 80G was rejected by the Id.CIT(E) on the ground that assessee do not have any registration under section 12AA of the Act.

9. Since we have set-aside the assessee's appeal filed against rejection of 12AA application, we set-aside the appeal in ITA No.483/PUN/2023 regarding 80G Registration to Id.CIT(E) for denovo adjudication after giving opportunity to the assessee. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

10. In the result, appeal of the assessee in ITA No.483/PUN/2023 is allowed for statistical purpose.

11. To sum up, both appeals of the assessee in ITA No's.483/PUN/2023 & 484/PUN/2023 are allowed for statistical purpose.

Order pronounced in the open Court on 1st August, 2023.

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

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

पुणे / Pune; दिनांक / Dated : 1st Aug, 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, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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