

**IN THE INCOME TAX APPELLATE TRIBUNAL
"H" BENCH, MUMBAI**

**BEFORE SHRI BR BASKARAN, AM
&
SHRI N. K. CHOUDHRY, JM**

आयकरअपीलसं./ I.T.A. No. 1055/Mum/2023
&
आयकरअपीलसं./I.T.A. No. 1056/Mum/2023

(निर्धारणवर्ष / Assessment Year: 2022-23)

**Kalyan Riverside Charitable
Foundation**

Rowhouse No.8, UN Godrej Hill.
Khadakpada Kalyan (W),
Maharashtra- 421301

PAN No. AADTK3684P

(अपीलार्थी/**Appellant**)

CIT Exemption Pune
Room No. 322, 3rd Floor,
Income Tax Office,
PMT Building, Shankar
Sheth Road, Pune
Maharashtra- 411037

Versus

(प्रत्यर्थी/**Respondent**)

Appellant by : None
Respondent by : Smt. Madhumalti Ghosh,
Ld. CIT DR

Date of Hearing : 18.07.2023
Date of Pronouncement : 20.07.2023

आदेश / ORDER

Per N K Choudhry, Judicial Member:

These appeals have been preferred by the Assessee/Appellant herein against the orders even dated 29th Sep,2022 and 30th Sep, 2022 impugned herein, passed by the Ld. Commissioner of Income Tax exemption, (in short 'Ld. Commissioner'),u/s. 12A and 80G of the Act for the AY: 2022-2023.

2. None appeared on behalf of the Appellant inspite of sending notice for the date of hearing on 18.07.2023, hence considering peculiar facts and circumstances, we are deciding these appeals as ex-parte.

3. First we will decide **I.T.A. No. 1055/Mum/2023** which pertains to challenge of the order rejecting the application for registration u/s 12 of the Act.

4. At the outset, we observe that the Appellant by filling online application on dated 31st March, 2022 in form no. 10AB sought registration under section 12A (1)(AC)(iii) of the Act. The same was taken into consideration by the Ld. Commissioner and vide notice issued through ITBA portal on 19th July, 2022, requested the Appellant to upload certain other information/clarification by 3rd Aug, 2022 which remains un-complied with. Thereafter, vide notice dated 18th Sep, 2022 another opportunity was given to the Appellant, whereby the Appellant was requested to submit its compliance by 23rd Sep, 2022. In the said notice, it was also specifically informed by the Ld. Commissioner that in the event of failure to comply by due date, the matter will be decided on the basis of material available on record. The said notice also remained un-complied with.

As the Appellant has not given any specific details, as to what actual activities being carried out by it and no credible evidence is submitted in support of its claim, though, specific opportunity of being heard was given, but failed to avail the same, the Ld. Commissioner therefore by observing *“that as the Appellant has not uploaded the requisite details despite giving opportunities therefore, it is not possible to ascertain, as to whether the activities are in line with the objects of the trust/institution”*, failed to draw any satisfactory conclusion about genuineness of the activities of the Appellant and ultimately rejected the aforesaid application of the Appellant.

5. We have given thoughtful consideration to the peculiar facts and circumstances of the case. No doubt the Ld. Commissioner before deciding the application filed by the Appellant, though given appropriate opportunity to the appellant to substantiate its case, however failed to decide the same in the absence of supported material and/ or non-production and non-explaining of documents and activities carried out by the appellant. Hence for

the just decision of case and for the ends of substantial justice, we are remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say for affording reasonable opportunity being heard to the Appellant.

The Appellant is also directed to join the appellant proceedings and to file the relevant documents before the Id. Commissioner and in case of default the Appellant shall not be entitled for any leniency. Hence

Resultantly I.T.A. No. 1055/Mum/2023 is allowed.

6. Coming to I.T.A. No. 1056/Mum/2023, which pertains to challenge to the denial of registration u/s 80G of the Act. Registration u/s 80G is depend upon the grant of registration u/s 12 of the Act, hence this case is also remanded to the file of Id. Commissioner for decisions afresh, with same terms and conditions as set out I.T.A. No. 1055/Mum/2023.

7. In the result, both the appeals filed by the Appellant stands allowed for the statistical proposes.

Orders pronounced in the open court on 20.07.2023.

Sd/-
(BR. Baskaran)
Accountant Member

Sd/-
(N. K. Choudhry)
Judicial Member

Ms.Urmila

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT- concerned
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
5. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**.उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**