

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

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

ITA No.715/PUN/2023

CPRS Rughalay Denagi Samiti, CPR College, Karvir, Kolhapur-416002	vs	CIT (Exemption), Pune.
PAN: AAAGC 1618 P		
Appellant		Respondent

Assessee by	:	Shri Pramod Shingate, CA
Revenue by	:	Shri Keyur Patel, CIT-DR
Date of hearing	:	21/09/2023
Date of pronouncement	:	22/09/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of Commissioner of Income Tax [Exemption], Pune (for short, 'CIT(E)'), dated 30.03.2023 as per the grounds of appeal on record.

2. The solitary grievance of the assessee in this appeal is the denial of exemption u/sec. 80G of the Income Tax Act, 1961 (for short, 'the Act').

3. We have carefully perused the relevant order of the Id. CIT(E), dated 30/03/2023 and therein it is seen that in order to identify the genuineness of the activities and how the fund of the applicant-trust is being utilized, various details were called for from the assessee by the office of CIT(E). The assessee submitted certain details in response to

the initial notice, however, various discrepancies were noticed by the Id. CIT(E), for which another notice was issued to the assessee for clarifying these discrepancies and providing supporting documents/evidences regarding the same. However, as evident at para 3 of the Id. CIT(E)'s order that the assessee has not furnished any explanation to the said discrepancies communicated to it and accordingly it was considered that the assessee has nothing to say in the matter. That, while granting exemption u/sec. 80G of the Act, it is incumbent upon the competent authority i.e. Id. CIT(E) to draw a satisfactory conclusion about the genuineness of the activities of the assessee and fulfillment of conditions laid down in clauses (i) to (v) of sec. 80G(5) of the Act. Since the assessee did not respond to the notice and since those discrepancies as pointed out by the Department were not resolved by the assessee, therefore, exemption application was rejected. The law is very clear that only when the Id. CIT(E) is satisfied that the applicant trust is legally eligible to be granted exemption u/sec. 80G of the Act, only then, such exemption can be granted and for this, the assessee has to establish that its activities are genuine and the funds utilized are in accordance with the provisions of the said section and as per the object of the trust. The Revenue always has the power to deny the exemption under the relevant provision if the assessee does not fulfill/satisfy with the requirements of the provision, however, reasonable opportunity has to be accorded to the assessee in order to furnish all the details and

suppose if assessee has not complied with the notices before the Id.CIT(E), then it has to be seen whether the assessee has failed the test of reasonableness in not complying with the notice of the Department. In the present case, first notice was issued on 05/01/2023 asking the assessee to submit compliance by 19/01/2023. These details were submitted and once the discrepancies were noticed another notice was issued on 21/03/2023 to be complied on 27/03/2023. So, in effect there were two opportunities given to the assessee. We also observe that Id. CIT(E) at para 2.2 (i) has stated that assessee has obtained regular registration u/sec. 12A(1)(ac)(i) of the Act, but it seems that assessee was not registered u/sec. 12A/12AA prior to 01/04/2021. That, in the course of hearing, Id.AR for the assessee had filed a copy of registration u/sec. 12AA of the Act dated 24/06/2019 which applies from A.Y. 2019-20. We also do not find any reference of this registration in the order of Id. CIT(E) whether this registration certificate was placed before the Id. CIT(E) at the time of proceedings before him that is also not clear from the order and this is the case of application for granting of exemption u/sec. 80G of the Act and in that regard, what is the significance of the statement made by the Id.CIT(E) that the applicant-trust was not registered prior to 01/04/2021, these issues remain unclear in the order of the Id. CIT(E). However, the fact of the matter is that the necessary details required especially with regard to the discrepancies pointed out by the Department have not been clarified through

supporting evidences by the assessee and in effect only two opportunities were given to the assessee.

4. Considering all these facts and circumstances, we are of the considered view, it is prudent and judicious to remand the matter to the file of Id. CIT(E) for *denovo* adjudication as per law complying with the principles of natural justice. We order accordingly. In view thereof, the Id. CIT(E)'s order is set aside and the matter is remanded to his file in terms aforestated. Resultantly, the grounds of appeal are allowed for statistical purposes.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 22nd September, 2023.

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

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 22nd September, 2023

vr/-

Copy to :

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

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.