

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"B" JAIPUR

डॉ. एस.सीतालक्ष्मी, न्यायिकसदस्य एवंश्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष  
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपील सं./ITA No. 419/JP/2023  
निर्धारणवर्ष/AssessmentYear :- 2023-24

District Adult Education Association 13, Prodh Shiksha Bhawan, Jhalawak Road Kota – 324 005	बनाम VS.	The CIT (Exemption) Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AABAD 4888P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Vedant Agarwal, Advocate  
राजस्व की ओरसे / Revenue by: Shri Ajay Malik, CIT-DR

सुनवाई की तारीख / Date of Hearing : 28/09/2023  
उदघोषणा की तारीख / Date of Pronouncement: 11/10/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

The assessee has filed an appeal against the order of the Ld.CIT (Exemption), Jaipur dated 29-09-2022 passed under section 12AB and of the Income Tax Act, 1961 raising therein following grounds of appeal:-

“1. On the facts and circumstances of the case and in law also, ld. CIT(E), Jaipur grossly erred in rejecting the application for registration u/s 12AB of the Income Tax Act, 1961.

2. On the facts and circumstances of the case and in law also, ld. CIT(E), Jaipur grossly erred in not offering a reasonably opportunity of being heard before rejecting the application for registration.

3. On the facts and circumstances of the case and in law also, Id. CIT(E), Jaipur grossly erred in not considering the fact that the activities of society are genuine and the society has fulfilled all the necessary conditions of registration.’’

2.1 At the outset of the hearing, the Bench noted that there is delay 255 days in filing the appeal by the assessee for which the Secretary of the Association filed an application dated 12-09-2023 praying therein that the Chairman of the Association Shri R.P. Gupta was confined to bed rest because of long illness and advice of the Doctor and thus he was suffering from C.A.D. from Nov. 2022 to June 2023 for which the Medical Certificate of the Doctor Shri R.P. Sharma, T.T. Hospital and Research Centre (P) Ltd. Talwandi, Kota has been submitted and to this effect, Shri R.P. Gupta, Chairman of the Association has also submitted an affidavit.

2.2 On the other hand, the Id. DR objected to the condonation application of the assessee and submitted that the Court may decide the issue as deem fit and proper in the circumstances of the present case but the prayer of the assessee is not correct when the institute is running even though the chairmen is ill what is the reason the assessee could not file the appeal in time.

2.3 After hearing both the parties and perusing the materials available on record, the Bench find merit in the condonation application of the assessee as there are medical exigences and considering that aspect of the case we

allow the same in view of the decision of Hon'ble Supreme Court in the case of Collector, land Acquisition vs. Mst. Katiji and Others, 167 ITR 471 (SC) as the assessee is prevented by sufficient cause.

3.1 Apropos grounds of appeal of the assessee, the main grievance of the assessee is that the ld. CIT(E) erred in passing the ex-parte order rejecting the application filed in Form 10AB for seeking registration u/s 12AB of the Act without providing sufficient opportunity of being heard. The ld. AR of the assessee further submitted that ld. CIT(E) has erred in not considering the documents submitted alongwith the application filed online dated 24-03-2022 in Form No. 10A, on the basis of which department can verify the genuineness of the activities carried out by the trust. Hence, the assessee remained deprived off in seeking registration u/s 12AB of the Act.

3.2 Per contra, the ld. DR as regards the merits of the case supported the order of the ld. CIT(E) and prayed to sustain the same.

3.3 The Bench heard both the parties and perused the materials available on record from which it transpires that the applicant association had filed an application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act through online on 24-03-2022. Thereafter a letter /Notice No. ITBA/EXM/F/EXM43/2022-23/10446605011) dated 16-08-2022 was issued requiring the applicant to submit certain documents/ explanation by

31-08-2022. However, no reply was filed online nor anyone attended in person. In view of principles of natural justice, one more opportunity was provided vide letter No ITBA/EXM/F/EXM43/2022-23/1045978722(1) dated 26-09-2022 as final opportunity but this time also none was present on the given date nor any reply was filed by the assessee. Since it is a limitation matter, therefore, the case was decided by the ld. CIT(E) on the basis of material available on record. It is pertinent to mention that the ld. CIT(E) conclusively rejected the application of the assessee seeking registration u/s 12AB of the Act by holding as under:-

‘‘07. Based on above discussion, it is clear that the activities of the applicant society are not charitable in nature as it is predominantly carrying out activities of imparting skill development training which is the primary source of income for the applicant Hence the applicant society cannot be held as charitable within the meaning of Section 2(15) of the Income Tax Act, 1961. Based on above, I am satisfied that the applicant trust is not fit for registration and, therefore, registration u/s 12AB is rejected and filed.’’

The Bench does not want to go into the merit of the case but it is imperative that the applicant association must be provided adequate opportunity of being heard by the ld. CIT(E). In this view of the matter, the Bench feels that the assessee trust should be given one more chance to contest the case before the ld. CIT(E) and the assessee Association is

directed to produce all the relevant papers concerning application so filed before the Id. CIT(E) to settle the dispute raised hereinabove.

3.4 Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

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

Order pronounced in the open court on 11 /10/2023.

Sd/-

(डॉ.एस.सीतालक्ष्मी)  
(Dr. S. Seethalashmi)  
न्यायिकसदस्य / Judicial Member

Sd/-

( राठोडकमलेशजयन्तभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 11/ 10/2023

Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- District Adult Education Association, Kota
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 419/JPR/2023)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar