

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

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.1016/PUN/2023

Shri Digambar Jain Saitwal Seva Mandal, 649, Vidyasadhana, South Kasaba, Karandikar Wada, Choupad, Solapur, Maharashtra.	vs	CIT (Exemption), Pune.
PAN: AAFTS 7175 K		
Appellant		Respondent

Assessee by	:	Shri P.D. Kudva, CA
Revenue by	:	Shri Keyur Patel, CIT-DR
Date of hearing	:	11/10/2023
Date of pronouncement	:	11/10/2023

ORDER

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 26.07.2023 as per the following grounds of appeal:-

"1. *The CIT Exemption:*

i. erred in rejecting the application for registration in Form No.10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 filed by the appellant on grounds that it had not furnished, within the appointed dated 20/07/2023, any explanation to the discrepancies communicated by show cause notice (SCN) dt. 14/07/2023.

ii erred in presuming that the appellant had nothing to say in the matter and drawing an adverse conclusion about the genuineness of the Trust's activities in line with the requirements of law.

- 2. The appellant pleads that the ex-parte order passed by the CIT Exemption at short notice without affording the appellant reasonable opportunity to make proper compliance has resulted in an order contrary to the fact and denial of justice.*
- 3. The appellant prays that the matter be restored to the file of CIT Exemption, to be heard & decided in accordance with law.*
- 4. The appellant pleads for directions allowing the appeal and craves leave to, add to, alter, amend, modify or withdraw any or all grounds of appeal."*

2. The solitary grievance of the assessee is that their application for registration u/sec.12AA of the Act had been rejected by the Department and it had also been contended by the assessee that without giving adequate opportunity, the case was dismissed by the Id.CIT(E).

3. That, on perusal of the order of the Id. CIT(E), it is observed that an application for registration u/sec. 12AA of the Act had been made by the assessee, and in order to verify the genuineness of the activities of the assessee and compliance to requirements of any other law for the time being in force by the applicant-trust, in pursuance to sec.12AA of the Act, various informations were asked from the assessee by the office of Id. CIT(E). These informations which were sought from the assessee have been enumerated in the said order of the Id. CIT(E) and are not repeated herein for the sake of brevity. The assessee had to submit all these details by 06/06/2023 and the said notice was duly served on the assessee through e-portal and e-mail. The assessee did submit the details as had been asked for, and after

scrutinizing those details, various discrepancies were noticed. Another notice was issued on 14/07/2023 which communicated the said discrepancies and the assessee was asked to comply with this notice on 20/07/2023. This notice was also duly served through e-portal and e-mail. However, the assessee neither submitted explanation to the show-case notice nor availed the opportunity of being heard. Thereafter, the Id. CIT(E) held that since the assessee has not furnished any explanation or details regarding the discrepancies pointed out, therefore it was presumed that the assessee has nothing to say in the matter and resultantly, the application filed by the assessee for registration u/sec. 12AA of the Act was rejected by the Department.

4. At the time of hearing before us, Id.AR for the assessee submitted that on the second compliance date i.e. 20/07/2023 they had actually submitted an adjournment petition before the Department. Further, Id.AR submitted that only two opportunities have been given to the assessee, and they are willing to appear before the Id. CIT(E) with all details/documentary evidences and clarify the discrepancies pointed out and, therefore, prayed that the matter may be remanded to the file of Id. CIT(E). Id.DR did not raise any objection, if the matter would be remanded to the file of the Id.CIT(E).

5. We are of the considered view that it is a case where the

application for registration of a trust was filed by the assessee, and for want of supporting evidences, the matter was rejected by the Department. It has to be appreciated that the purpose of the provisions for registration of trust u/sec. 12AA and granting of exemption u/sec. 80G, all these sections derives their spirit from the Directive Principles of State Policy enshrined in the Constitution of India. Since, the Govt. of India makes endeavor to provide welfare to one and all in the society at large and in view thereof the registration for public charitable trusts are given in order to ensure that through these charitable trusts benefits should flow to the entire society wherefrom various charitable activities, the entire society is benefited and the objectives of the Govt. of India in furtherance to the Directive Principles of State Policy are achieved. These provisions for the trust registration and granting of exemption u/sec. 80G enhance the socio economic welfare in the society. Furthermore, the Income Tax laws are welfare legislations and not penal in nature. Therefore, in the interest of justice and considering all the afore-stated observations, we are of the considered view that one final opportunity should be provided to the assessee to file the relevant details before the Id.CIT(E) and represent their case on merits. In view thereof, we set aside the order of the Id. CIT(E) and remit the matter back to his file with the aforesaid direction and the Id. CIT(E) shall re-adjudicate as per law complying with the principles of natural justice. Grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in open Court on 11th October, 2023.

Sd/-
(G.D. PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 11th October, 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.