

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER &  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA Nos.770 & 771/PUN/2023

Swamidham Jyotirling Sanstha, D/2 Flat No.3, Shivshrushti Apartment, Bahiratwadi, Senapati Bapat Road, Pune-411016  PAN: ABETS 3766 L  Appellant	vs	CIT (Exemptions), Pune.     Respondent
--	----	--

Assessee by	:	Shri Jayant Chandrachud, AR
Revenue by	:	Shri Ajay Kumar Kesari, DR
Date of hearing	:	17/10/2023
Date of pronouncement	:	17/10/2023

ORDER

Per Bench:

These two appeals preferred by the assessee emanates from the separate orders of Commissioner of Income Tax (Exemption), Pune (for short, 'CIT(E)') both dated 31.05.2023 as per the grounds of appeal on record.

2. In ITA No. 770/PUN/2023, the assessee is aggrieved with the rejection of application for grant of registration u/sec. 12AA of the Act; and in ITA No. 771/PUN/2023, the assessee is aggrieved with the rejection of application for grant of exemption u/sec. 80G of the Act.

3. At the time of hearing, the assessee wanted an adjournment which was rejected. The case was heard and discussed on merits.

4. We have perused the orders of the Id. CIT(E), considered the submissions made by the parties before us along with the relevant documents on record.

5. That, regarding the rejection of registration u/sec. 12AA of the Act, Id. CIT(E) has to look into the genuineness of the activities performed by the assessee and also whether the assessee-trust is complying with the relevant laws as prevalent at that time while performing the activities according to the objects of such trust. In this case, the main reason for which the registration was denied is the question that whether the assessee was undertaking charitable or religious activities. The assessee has contended that in view of its objects to undertake major activities in the field of environment and science, working towards the activities of social welfare environmental balance and health, the assessee trust is performing 'Agnihotra'. The assessee had also provided certain basic information regarding this practice of 'Agnihotra' and it is the contention of the assessee that through this practice, the assessee would be taking care of the global welfare controlling environmental pollution. The Id. CIT(E), on the other hand, views this activity of 'Agnihotra' as nothing, but an ancient fire ritual as mentioned in the Vedic writings and largely found to be religious in nature. But from the entire order of the Id. CIT(E), it is not precise and clear whether the activity can be called purely religious, so to deny the registration u/sec. 12AA of the Act. We are of the

considered view that more detailed examination and verification of the facts are required before arriving at any conclusion. Further, we observe that there was another issue where the assessee trust had availed a temporary loan from its Secretary and one of the trustees Shri Sarang Buduk. On raising the query about this financial transaction with the trustee, the assessee-trust responded that it was merely an arrangement for acquiring a plot of land by way of raising temporary loan. However, the assessee has failed to give the terms and conditions including the rate of interest paid to Shri Sarang Buduk while availing such loan facility and that too from its own trustee. At the time of hearing, one of the trustees, who is the AR in this case submitted that they are willing to provide all details regarding this issue also, before the Id. CIT(E) and therefore prayed that one final opportunity may be granted to represent their case before the Id. CIT(E).

6. We observe that it is a case where the application for registration of a trust was filed by the assessee and 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 present their case on merits. That, further in the foregoing paras we have also held that more verification of facts are required regarding activities of the assessee in terms with sec.12AA of the Act by the Id. CIT(E). 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 adjudicate as per law complying with the principles of natural justice. Grounds of appeal of the assessee stands allowed for statistical purpose.

7. In the result, ITA No. 770/PUN/2023 is allowed for statistical purposes.

**ITA No. 771/PUN/2023**

8. The first issue for grant of registration has to be decided, then

the next issue comes regarding granting of exemption u/sec. 80G of the Act. That, for the sake of completeness and consistency, this appeal which pertains to the issue of rejection of grant of exemption u/sec. 80G is also remanded back to the file of Id. CIT(E) to adjudicate as per law complying with the principles of natural justice. In view thereof the order of the Id.CIT(E) is set aside. We order accordingly.

9. In the result, ITA No. 771/PUN/2023 is also allowed for statistical purposes.

10. In the combined result, both the appeals of the assessee stands allowed for statistical purposes.

Order pronounced in open Court on 17<sup>th</sup> October, 2023.

Sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

Sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Dated : 17<sup>th</sup> October, 2023

vr/-

Copy to :

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

By Order

// TRUE COPY //

Senior Private Secretary  
ITAT, Pune.