

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 847/Kol/2023

Hoetus Foundation Naya Basti, Beside Kali Mandir Champasari Siliguri - 734003 [PAN : AACTH5851L]	Vs	Commissioner of Income Tax, (Exemption), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Nurupama DB, C.A.
Revenue by :	Shri Abhijit Kundu, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 10/10/2023
घोषणा की तारीख /Date of Pronouncement: 16/10/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The above captioned appeal is directed at the instance of the assessee against the order of the Commissioner of Income Tax (Exemption), Kolkata, dt. 20/10/2022, rejecting the grant of provisional registration u/s 80G of the Act.

2. The Registry has pointed out that there is a delay of 203 days in filing the present appeal by the assessee. Petition for condonation of delay is placed on record by assessee explaining the reasons. On perusing the same, we are convinced that the assessee was prevented by sufficient cause from filing this appeal in time. Accordingly, we condone the delay and proceed to admit the appeal for hearing.

3. Without prejudice to the Grounds raised before this Tribunal, the Id. Counsel for the assessee submitted that the Id. CIT(E) was not justified in passing an *ex-parte* order without providing any reasonable

opportunity of hearing to the assessee. The ld. Counsel for the assessee further submitted that in reply to the questionnaire dt. 20/10/2022 seeking certain information, the assessee inadvertently submitted “provisional registration u/s 12A of the Act in place of provisional registration u/s 80G of the Act”, which led to the non-granting of registration. Further the assessee was not provided any opportunity of being heard for confronting the issues. The ld. Counsel for the assessee prayed that the order of the ld. CIT(E) be set aside for fresh adjudication on merits.

4. The ld. D/R, though not leaving his grounds, raised no objection to the plea of the assessee.

5. In view of the above, in the interest of justice, we deem it fit to restore the issue to the file of the ld. CIT(E), for *de-novo* adjudication, in accordance with law, after giving the assessee adequate opportunity of being heard, on the grounds of violations of the principles of natural justice. The ld. CIT(E) is directed to pass a speaking order after dealing with the merits of the case.

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

Order pronounced in the Court on 16th October, 2023 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 16/10/2023

**SC Sarma*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata