

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.130/Ind/2023
(Assessment Years:)

Shri Oswal Bade Sath Marwari Mewari Trust Mewari Trust 550 MG Road, Indore	Vs.	CIT(E) Bhopal
(Appellant / Assessee)		(Revenue)
PAN: AAETS0766K		
Assessee by	Shri S.N. Agrawal & Pankaj Mogra, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	11.10.2023	
Date of Pronouncement	11.10.2023	

O R D E R

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 28.02.2023 of Commissioner of Income Tax(Exemption), passed u/s 12AB of the Act whereby the application for registration u/s 12AB was rejected. The assessee has raised following grounds of appeal:

“1.That on the facts and in the circumstances of the case and in law, the Ld. CIT (Exemption) erred in rejecting the application filed by the assessee for final registration u/s 12A of the Act without appreciating the facts of the case even when copy of Trust Deed was filed by the appellant along with the registration application wherein objects of the Trust were clearly mentioned.

2.That on the facts and in the circumstances of the case and in law, the Ld. CIT (Exemption) erred in rejecting the application filed by the

assessee for registration u/s 12A of the Act by passing an ex-parte order by mentioning that assessee has not furnished the required details even when the assessee has not received any notice in person/ physical mode for making compliance in this regard.”

2. Ld. AR of assessee has submitted that the assessee filed an application for registration u/s 12A of the Act which was rejected by the CIT(E) vide impugned order passed ex-parte. He has pointed out that the CIT(Exemption) has rejected the application for want of submission and requisite documents. He has explained that due to the communication gap the assessee could not respond to the alleged notices issued by the CIT(E). Therefore, he has pleaded that the assessee be granted one more opportunity to produce relevant details and supporting documents before the Ld. CIT(E).

3. On the other hand, Ld. DR has not seriously objected to the prayer of the assessee for remanding the matter to the record of the CIT(E) for fresh adjudication.

4. Having considered the rival submission and careful perusal of the impugned order of the CIT(E) we note that due to non-submission of the required documents as well as response on behalf of the assessee the application filed by the assessee for registration under new provisions of section 12AB of the Act was rejected by the CIT(E). The reasons given in the Annexure to para 9 of the impugned order are as under:

Annexure (mentioned in row-9 above)

The assessee has applied for registration under the new provisions of section 12AB of the Act and three opportunity letters were also issued to the assessee and various documents were called to process the application and to verify the object and activities of the assessee. In response to the letter, the assessee has not submitted the required documents. Considering the facts of the case, it is found that the application of the assessee cannot be processed due to non-compliances of the assessee, thus, the same is hereby rejected.

NEERAJA PRADHAN

CIT EXEMPTION BHOPAL

5. Thus, it is clear that the CIT(E) has rejected the application in limine without even discussing the nature of objects and activity of the assessee. Accordingly in the facts and circumstances of the case and in the interest of justice the impugned order of the CIT(E) is set aside and the matter is remanded to the record of the CIT(E) for fresh order on the application of the assessee for registration under the provisions of section 12AB of the Act. Needless to say before passing fresh order the assessee be given an appropriate opportunity of hearing as well as consider the case laws relied upon by the assessee.

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

Order in pronounced in Open Court on conclusion of hearing on
11/10/2023

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, 11.10.2023

Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore