



॥आयकर अपीलीय न्यायाधिकरण, पुणे “ए” न्यायपीठ, पुणे में॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'A' BENCH, PUNE

BEFORE HON'BLE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1032/PUN/2023

Shri Ganesh Devasthan Trust,

A.P-Mhaske Wadi, Parner,

Ahmednagar – 414302.

PAN: AAKTS7480E

.....अपीलार्थी / *Appellant*

बनाम / V/s

The Commissioner of Income Tax

(Exemption), Pune

..... प्रत्यर्थी / *Respondent*

&

आयकर अपील सं. / ITA No.1033/PUN/2023

Jay Malhar Shikshan Prasarak Sanstha,

A/p. Pimpalgaon Rotha,

Rotha, Parner, Ahmednagar – 414303.

PAN: AAETJ1515D

.....अपीलार्थी / *Appellant*

बनाम / V/s

The Commissioner of Income Tax

(Exemption), Pune

..... प्रत्यर्थी / *Respondent*

द्वारा / Appearances

Assessee by : Shri P K Singh

Revenue by : Shri Mirtyunjoy Barnwal

सुनवाई की तारीख / Date of conclusive Hearing : 18/10/2023

घोषणा की तारीख / Date of Pronouncement : 18/10/2023



आदेश / ORDER

PER BENCH ;

These two appeals of different assesseees are instituted u/s 253(1)(c) of the Income-tax Act, 1961 [‘the Act’] against separate orders of rejection passed vide DIN & order No. ITBA/EXM/F/EXM45/2023-24/1055662449(1) dt. 01/09/2023 & No. ITBA/EXM/F/EXM45/2023-24/1055594294(1) dt. 30/08/2023 respectively [‘Impugned orders’], by the Commissioner of Income Tax (Exemption), Pune [‘CIT(E)’] u/s 12A(1)(ac)(vi)of the Act.

2. Since substantive issue involved in both these appeals being common, at the request of rival parties hereof, these are taken up together for the sake of brevity and for a common & consolidated order.

ITA No.1032/PUN/2023.

2. In the extant case we note that, the appellant assessee vide its Form No.10AB dt.29/03/2023 made an application to the respondent under clause (iii) of section 12A(1)(ac) of the Act thereby seeking regular/final registration u/s 12AB of the Act. The said application of the appellant assessee was perused and a notice dt. 11/07/2023 issued by the registering authority thus calling upon the assessee to upload certain information / clarification this went un-responded. A replied submitted in response to notice dt. 28/07/2023 revealed certain discrepancies; pursuant to which the appellant was issued a show cause as to why the application should not be rejected and the provisional registration granted be cancelled, the same remained unattended.



3. In view of the Ld. CIT(E), the assessee failed to prove the charitable nature and genuineness of its activities for the reasons that i) the copy of the judgment placed on record in place of certified copy of trust deed did not contain the objects of the trust; ii) the copy of the trust deed remain to be filed; iii) the assessee applicant indulged in the certain financial transaction involving cash deposit and payment thereof by a bearer cheques; iv) the donation cheques deposited into bank withdrawn in cash; v) bearer cheques were issued there against remain unexplained and vi) the substantial question of trust activities consist of religious character where more than 50% of the expenditure found incurred on religious activities. In these circumstances the aforestated application by the impugned order is rejected by the registering authority Ld. CIT(E) for his failure to arrive at positive satisfaction about genuineness of activities of the assessee in the absence of evidences and compliance of discrepancies communicate.

ITA No.1033/PUN/2023 :

4. In this case, we note that, the appellant vide Form No.10AB dt.30/03/2023 made an application to the respondent under clause (iii) of section 12A(1)(ac) of the Act thereby seeking regular/final registration u/s 12AB of the Act. Vide first notice dt. 29/06/2023 the Ld. CIT(E) called up certain information from the appellant assessee, however when same remained non-complied, the assessee was put to second notice dt. 24/07/2023 which assessee replied by adducing necessary documents called for.



5. From the submission of the appellant the Ld. CIT(E) noted certain discrepancies and shortcoming with respect to non-submission of (i) copy of permission under section 36A of Maharashtra Public Trust Act, 1950 (ii) details of outstanding loan liability remain unpaid (iii) details of utilisation of loan availed by the appellant and (iv) copies of ledger accounts etc. In spite of due notice and reasonable opportunity the appellant assessee failed to adduce requisite details and furnish explanation with respect to discrepancies noted. The aforesaid application by the impugned order is rejected by the registering authority Ld. CIT(E) for his failure to arrive at positive satisfaction about genuineness of activities of the assessee in the absence of evidences and compliance of discrepancies communicate.

6. We have heard rival contention and perused the material placed on records subject to the provisions of rule 18 of the ITAT Rules, 1963. We note that, the appellant's effective failure to adduce requisite and necessary documents to demonstrate their claim of eligibility for grant of registration u/s 12A(1)(ac)(iii) of the Act constrained the registering authority to deny the registration by rejecting the application and cancelling the provisional registration granted earlier.

7. We see this provision of registration of trust u/s 12A/12AB and granting of recognition u/s 80G of the Act is derived from the spirit from Directive Principles of State Policy enshrined in the Constitution of India. The Govt. of



India makes every endeavour to provide welfare to one and all in the society and in view thereof the registration for public charitable trusts are given in order to ensure that through these charitable trusts benefits flows to entire society, thus the Directive Principles of State Policy are achieved. These provisions of registration u/s 12A/12AB and granting of recognition u/s 80G of the Act are to enhance socio economic welfare of the society. Furthermore, Income Tax laws are welfare legislations and not penal in nature, therefore, in larger interest of justice with forgoing observations, we are of the considered view that, both these appellants deserves one more opportunity to make good the defects/shortcomings. In view thereof, without offering our comment on merits of the case and placing on records no objection from the Revenue, we set aside the impugned order and remit the matter back to the Ld. CIT(E) for *de-nova* consideration, preferably in two effective hearings to both the appellant assesseees.

8. In result, both these appeals are ALLOWED FOR STATISTICAL PURPOSES.

U/r 34 of ITAT Rules, orders are pronounced in open court on this Wednesday 18th day of October, 2023.

-S/d-

SATBEER SINGH GODARA
JUDICIAL MEMBER

पुणे/ PUNE ; दिनांक / Dated : 18th day of October, 2023.

आदेशकीप्रतिलिपिअप्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

4. The CIT-Concerned(MH-India)

5. DR, ITAT, Pune Bench 'A', Pune

SGR* Allotment (1 = 1)

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

3. The Pr.CIT(Exemption),Pune

6.गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठनिजीसचिव / Sr. Private Secretary

आयकरअपीलीयन्यायाधिकरण, पुणे / ITAT, Pune.