

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, JABALPUR
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
ITA No. 107 & 108/JAB/2023
(A.Y: 2016-17 & 2018-19)

Parashavnath Digambar Jain Mandir Pishanari Madhiya Trust, 01Madhiyaji, Garha, Purva, Jabalpur-482003. MadhyaPradesh.	Vs.	ITO (Exemption) Napier Town, Jabalpur-482002, MadhyaPradesh.
PAN/GIR No. : AABTP7900R		
Appellant	..	Respondent

Appellant by :	Shri.Manish Koshal, CA & Smt.Pankhuri Koshal.AR
Respondent by :	Shri. ShivKumar.Sr. DR

Date of Hearing	22.09.2023
Date of Pronouncement	19.10.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

These are the two appeals filed by the assessee against the separate orders of the National Faceless Appeal Centre (NFAC)Delhi/CIT(A) passed u/sec143(3) and 250 of the Act.

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay of 72 days in filing the

appeals before the Hon'ble Tribunal and filed an application for condonation of delay. Whereas, the facts mentioned are reasonable and the Ld.DR has no specific objections. Accordingly, we condone the delay and admit the appeals.

3. Since the issues involved in these appeals are similar and identical, hence they are clubbed, heard and a consolidated order is passed. For the sake convenience, we shall take up ITA No.107/Jab/2023 For the A.Y 2016-17 as a lead case and facts narrated .The assessee has raised the following grounds of appeal:

1. The Ld' A.O. has erred in law and facts in non-considering the registration u/s 12A in spite of necessary documents produced before the AO during the course of assessment and Hon' CIT(A) upheld it.

2. The Ld' CIT (A) has erred in law and facts the in considering the reason for scrutiny was non filing of Form 10B whereas the same was duly filed within the stipulated time limit as prescribed in 139(1) and the issue was nowhere raised by the AO in his assessment order.

3. The Ld' AO has erred in law and facts in understanding the provisions of sec 12A

4 Any other grounds which may be allowed at the time of proceeding u/s 255(6).

4. The Brief facts of the case are that, the assessee is a registered religious Trust. The assessee has e-filed the return of income for the A.Y 2016-17 on 15.10.2016 disclosing a total income of Rs. Nil. Subsequently the case was selected for scrutiny under CASS as “the Form No.10B was not filed or filed after due date” and notice u/sec 143(2) and U/sec 142(1) of the Act are issued. In compliance, the assessee has submitted the details through ITBA in respect of capital expenditure, bills, vouchers and ledger. Further, the AO has issued notice u/sec 142(1) of the Act on 05.12.2018 to produce the copy of registration certificate u/s 12A of the Act. Whereas the assessee has submitted the reply regarding registration certificate on 10.12.2018 but could not produce the copy of registration certificate u/s 12A of the Act. Finally the A.O observed that the assessee has not submitted certificate of registration U/sec12A of the Act and has denied the benefit of exemption u/s Sec. 11 of the Act and assessed the total income of Rs.89,83,483/- and passed the order u/s 143(3) of the Act dated 12.12.2018.

5. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts, submissions of the assessee and findings of the A.O and has confirmed the action of the A.O and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

6. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in not considering the facts that the assessee is registered u/s 12A of the Act but for various reasons could not produce the copy of registration certificate. Further the assessee has filed the Form No.10B within the time limit u/sec 139(1) of the Act. The Ld.AR substantiated the submissions with the paper book and judicial decisions and prayed for allowing the appeal. Per Contra, the Ld.DR supported the order of the CIT(A).

7. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in

confirming the action of the AO in denying the benefit of exemption u/s 11 of the Act as the assessee has not produced the registration certificate u/s 12A of the Act. The contentions of the Ld. AR that the assessee has filed the details of obtaining of registration certificate u/sec12A of the Act placed at Annex 1 to 4 of the paper book. Since the correspondence pertains to year 1974, a query was raised to the Ld.AR to submit the copy of registration certificate, the explanations are not satisfactory.

8. The Ld. AR relied on the judicial decisions of granting of deemed registration U/sec12AA of the Act. Whereas the subject matter of appeal before us is with respect denial of the benefit of exemption u/s 11 of the Act as the assessee has not produced the registration certificate u/s 12A of the Act in the assessment proceedings. Whereas it was brought to the knowledge that, for the A.Y 2011-12, in the case of the assessee own case, the assessment order was passed u/sec143(3)r.w.s 147 of the Act dated 16-10-2018, were at Page.No.1 dealt as under *“The society is registered under the I.C.S Bar-at-law, district Judge Jabalpur on 20.03.1933. The society is registered u/s 12AA of the Act 1961 vide registration No. CIT/MP/9/773-DT on 06.05.1974 the society*

produced the copy of the registration certificate". Therefore, considering, facts, submissions and the principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences of granting of registration u/sec12A of the Act and requisite information in support of claim. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues along with the evidences to the file of the Assessing officer to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and we allow the grounds of appeal of the assessee for statistical purposes.

ITA No. 108/Jab/2023, A.Y 2018-19.

9. As the facts and circumstances in this appeal is identical to ITA No 107/Jab/2023, for the A.Y 2016-17 (except variance in figures) and the decision rendered in above paragraphs would apply mutatis mutandis for this appeal also. Accordingly, the order of the CIT(A) is set aside and remit the entire issue to the file of the AO to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting

the information and allow the grounds of appeal for statistical purposes.

10. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced under Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai Dated 19.10.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

(Asst. Registrar)
ITAT, Jabalpur