

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ ITA. No. 587 & 588/JPR/2023
निर्धारण वर्ष / Assessment Years : 2023-24

Jasrapur Gramin Vikas Samiti Vill- Jasrapur, Khetri, Jhunjhunu.	बनाम Vs.	CIT-Exemption, Jaipur.
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: AAJAJ0928 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Pawan Kumar Sanghi
राजस्व की ओर से / Revenue by : Shri Ajay Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 31/10/2023
उदघोषणा की तारीख / Date of Pronouncement : 22/11/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

These two appeals are filed by the assessee and are arising out of the order of the Learned Commissioner of Income Tax (Exemption), [Here in after referred as CIT(E)] Jaipur both dated 21.07.2023 rejecting the application for recognition u/s. 12AB and approval for 80G of the Act.

2.1 In ITA No. 587/JPR/2023 the assessee has raised following

grounds:-

“1. That on the facts and in the circumstances of the case and in Law, the Ld. CIT-Exemption has erred in rejecting the claim of the appellant for registration under section 12AA/12AB.

2. That having regard to the facts and circumstances of the case, Id. CIT-Exemption erred on facts and in law in rejecting the claim of the appellant purely on the past cases without bringing any fresh material on record to give a finding as to their rejection in a new and fresh manner.

3. That having regard to the facts and circumstances of the case, the Id. CIT-Exemption completely ignored the facts that the appellant is already registered under Rajasthan Society act but he rejected the claim on the basis of Non registration with RPT Act, 1959, ignored erred on facts and in law in rejecting the claim of the appellant.

4. The Ld. CIT-Exemption completely ignored the charitable activities for the welfare of the society carried out by the appellant.

5. The appellant prays to grant permission to add/alter/modify/insert/withdraw any ground of appeal during the course of hearing of appeal and till it is finalized.”

2.2 In ITA No. 447/JPR/2023 the assessee has raised following

grounds:-

“1. That having regard to the facts and circumstances of the case, the Id. CIT-Exemption has erred in rejecting the claim of the appellant for Registration under section 80G.

2. That having regard to the facts and circumstances of the case, the Id. CIT-Exemption erred on facts and in law in rejecting the claim of the appellant purely on the past cases without bringing any fresh material on record to give a finding as to their rejection in a new and fresh manner.

3. That having regard to the facts and circumstances of the case, the Id. CIT-Exemption completely ignored the facts that the appellant is already registered under Rajasthan Society act but he rejected the claim on the basis on Non registration with RPT Act, 1959, ignored erred on facts and in law in rejecting the claim of the appellant.

4. The Ld. CIT-Exemption completely ignored the charitable activities for the welfare of the society carried out by the appellant.

5. The appellant prays to grant permission to add/alter/modify/insert/withdraw any ground of appeal during the course of hearing of appeal and till it is finalized.”

3. Brief facts of this case are that the assessee filed online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed on 12.01.2023. A letter/notice No. ITBA/EXM/F/EXM43/2023-24/1051901081(1) dated 06.04.2023 was issued at the e-mail/address provided in the application requiring the assessee to submit certain documents/explanations by 21.04.2023. In this connection, the assessee submitted part reply through e-mail dated 21.04.2023 which was duly examined, few discrepancies were found from that submission so made. Hence, considering the principle of natural justice, one more opportunity was provided to the assessee vide Letter No. ITBA/EXM/F/EXM43/2023-24/1054277545(1) dated 11.07.2023 as final opportunity through which date of submission was fixed as 14.07.2023. In response to the above, the assessee had submitted reply which was thoroughly examined, but not found tenable by Id. CIT(E). Since it was a limitation matter, the case was decided on

the basis of material available and filed by the assessee along with its application in Form no. 10AB. As the assessee fail to submit the proof of registration under the Rajasthan Public Trust Act, 1959, the Id. CIT(E) found that the assessee is not eligible for registration u/s 12AB of the Act.

3.1 Whereas in the application for registration u/s. 80G of the Act the Id. CIT(E) noted that as the assessee is also not registered under the Rajasthan Public Trust Act and consequently the registration of 12AB was rejected and thereby the application for registration u/s. 80G of the act was also rejected.

4. Assessee aggrieved from the rejection of approval / recognition, preferred the present appeal on the grounds as raised here in above. Apropos to the ground so raised the Id. AR of the assessee submitted that the reasons advanced for rejection are curable and the assessee was not given sufficient opportunity of being heard before the Id. CIT(E). The Id. AR also submitted that the trust has already applied for registration under the Rajasthan Public Trust Act also and if given an opportunity the observations

made by the Id. CIT(E) being curable in nature the assessee have sufficient reason to get the registration / recognition.

5. Per contra, the Id. DR relied on the orders of the Id. CIT(E) and submitted that the assessee even though various opportunities were given has not submitted required details and therefore, the plea of the assessee is not maintainable.

6. We have heard the rival contentions and perused material available on record. The Bench noted that the Id. CIT(E) rejected the registration u/s. 12AB of the Act only on the reason that the assessee is not registered with the authority prescribed under the Rajasthan Public Trust Act, 1959. The Id. CIT(E) also noted that the assessee partly complied with the notice and balance details to be submitted by the assessee but by the time the assessee submits those details the application for registration was rejected on the ground that the assessee is not registered under the Rajasthan Public Trust Act. Thus, the bench noted that the reasons advanced by the Id. CIT(E) while rejecting the application of the assessee are curable in nature and

considering the peculiar facts of the case that the assessee has already applied for Registration as per Rajasthan Public Trust Act. Thus, considering that aspect of the matter the liberal view of the matter is required to be taken in this case as the defect pointed out are not that much serious and if given a chance the assessee is in a position to cure the defects pointed out by the Id. CIT(E). Considering this aspect of the case the Bench does not want to go into merit of the case, but it is imperative that the assessee must be provided adequate opportunity of being heard and be given a fair chance by the Id. CIT(E) to cure the defect / non submission of the certain information. In the light of this aspect of the case, the Bench feels that the assessee should be given one more chance to contest the case before the Id. CIT(E) and the assessee is directed to produce all the relevant papers concerning both the application so filed before the Id. CIT(E) to settle the dispute raised hereinabove.

7. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

In the result, the appeals of the assessee in ITA No.587/JPR/2023 and ITA No. 588/JPR/2023 are allowed for statistical purposes.

Order pronounced in the open Court on 22/11/2023.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 22/11/2023

*Santosh

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

1. अपीलार्थी / The Appellant- Jasrapur Gramin Vikas Samiti, Khetri.
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 587 & 588/JPR/2023 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar