

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

I.T.A. No. 967/KOL/2023

***Fatika Nazrul Sukanta Educational
Training Center,.....Appellant
At Fatika Rol, P.S. Indas,
Bankura-722205, West Bengal
[PAN: AAATF3588Q]***

-Vs.-

***Commissioner of Income Tax(Exemptions),Respondent
Kolkata,
10B, Middleton Row (6th Floor),
Kolkata-700071***

- A N D -

***I.T.A. No. 963/KOL/2023
Bara-Urma Samaj Kalyan Samity,.....Appellant
At Bara Urma, Bara Urma B.O.,
Baraurmma, Purulia-723153, West Bengal
[PAN: AABAB2444B]***

-Vs.-

***Commissioner of Income Tax(Exemptions),Respondent
Kolkata,
10B, Middleton Row (6th Floor),
Kolkata-700071***

Appearances by:

N o n e, appeared on behalf of the assesseees

*Shri Abhijit Kundu, CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : November 09, 2023

Date of pronouncing the order : November 30, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present two appeals are directed at the instance of assesseees against the orders of ld. Commissioner of Income Tax (Exemption), Kolkata both dated 11.07.2023 passed on the respective appeals of the appellants.

2. The grievance of the assesseees is that the ld. CIT (Exemption) failed to grant registration under section 12AB, sub-section (1), clause (b)(ii) of the Income Tax Act. The Registry has pointed out that ITA No. 963/KOL/2023 is time-barred by 2 days and ITA No. 967/KOL/2023 is time-barred by 3 days. On perusal of the record, we are of the view that such delay might have occurred on account of calculation error. Considering the smallness of the delay, we condone it and proceed to decide the appeals on merit.

3. In response to the notice of hearing, no one has come present on behalf of the assesseees. With the assistance of ld.

CIT(DR), we have gone through the record carefully. For the facility of reference, we reproduce the relevant part of the impugned order passed in ITA No. 963/KOL/2023, which reads as under:-

“The assessee has filed an application for registration under section 12A(1)(ac)(iii) of the Income Tax Act, 1961 in Form No. 10AB. This application was found to be prima-facie non-maintainable and accordingly vide letter dated 14.06.2023, certain clarifications were sought from the assessee.

The application filed by the assessee is premature as the earlier order in Form 10AC is still valid till A. Y. 2026-2027. Accordingly the application filed by the assessee is treated as non- maintainable and for statistical purpose the application filed by the assessee is treated as ‘rejected’. However, no adverse inference is drawn against the assessee.

MANISH KANOJIA
CIT (EXMPTION), KOLKATA”

4. Verbatim same order is passed in ITA No. 967/KOL/2023 except variation in the date of the letter i.e. 15th June, 2023 instead of 14th June, 2023 mentioned in the order reproduced by us. Therefore, we do not deem it necessary to reproduce the relevant part of the impugned order in ITA No. 967/KOL/2023.

5. A perusal of the above orders would reveal that Id. CIT(Exemption) did not adjudicate the applications on merit. He simply treated the applications as infructuous on the ground that the assesseees are already enjoying registration. It is pertinent to

mention that clause (c) of section 12AB, sub-section (1) provides for grant of provisional registration for a period of three years from the assessment year from which the registration is sought. The assessee is having provisional registration but they have applied for grant of registration under section 12AB(1), clause (b) and nothing else. Ld. Commissioner was required to call for the documents and information satisfies himself and then grants the registration, which is valid for five years. The application was meant for grant of registration and not for provisional. Therefore, Ld. CIT has misconstrued the application itself and erroneously dismissed them by treating premature in nature. The impugned orders are set aside and the issues are relegated to the Ld. CIT (Exemption) for fresh adjudication.

6. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 30/11/2023.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 30th day of November, 2023

*Copies to : (1) Fatika Nazrul Sukanta Educational
Training Center,
At Fatika Rol, P.S. Indas,
Bankura-722205, West Bengal*

(2) Bara-Urma Samaj Kalyan Samity,

*At Bara Urma, Bara Urma B.O.,
Baraurmma, Purulia-723153, West Bengal*

*(3) Commissioner of Income Tax(Exemptions),
Kolkata,
10B, Middleton Row (6th Floor),
Kolkata-700071*

*(4) Commissioner of Income Tax- , Kolkata;
(5) The Departmental Representative
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.