

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE 'B' BENCHES :: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &  
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.967/PUN/2023

Pune Vidyarthi Griha, 1786, Pune Vidhyarthi Griha, Sadashiv Peth, Pune - 411030	vs	CIT (Exemption), Pune.
PAN: AAATP 1233 A		
Appellant		Respondent

Assessee by	:	Smt. Deepa Khare, AR
Revenue by	:	Shri Ajay Kumar Kesari, DR
Date of hearing	:	05/12/2023
Date of pronouncement	:	06/12/2023

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of Commissioner of Income Tax [Exemption], Pune (for short, 'CIT(E)'), dated 21.08.2023 as per the grounds of appeal on record.

2. That, on perusal of the grounds, it is evident that the assessee is aggrieved with the decision of Id.CIT(E) holding the application for registration u/sec. 12A of the Income Tax Act, 1961 (for short, 'the Act') as non-maintainable on the ground that assessee was approved registration u/sec. 10(23C) of the Act, whereas as per sub-clause (iv) of clause (ac) of sub-section (1) of sec.12A, the assessee can apply for making registration u/sec. 12AA operative while approval u/sec. 10(23C) would cease to operate.

3. In this case, the assessee had filed application in Form 10AB u/sec. 12A(1)(ac)(iv) of the Act. The Id.CIT(E), after verifying the details/documents submitted by the assessee as evident from para 6 of his order, has held that assessee has already got regular registration in Form 10AC u/sec. 12AB read with clause (i) of first proviso to clause (23C) of sec.10 of the Act which is effective for 05 years. That, considering the fact, the regular registration u/sec. 12AB of the Act for the assessee is valid upto A.Y. 2026-27, there was no point in filing of application for renewal of such regular registration at the present moment. It was held by the Id.CIT(E) that the assessee had inadvertently filed the present application and it was dismissed as non-maintainable.

4. At the time of hearing before us, Id.AR for the assessee appraised the Bench that the applicant-trust had registration u/sec. 10(23C) of the Act as well as sec.12A of the Act. That, post amendment to the relevant provisions from A.Y. 2020-21 onwards, the assessee would be entitled to either have registration u/sec. 12A or 10(23C) of the Act and not both of them together. The assessee wanted through the present application that their registration u/sec. 10(23C) be made inoperative while their registration u/sec. 12A should be made operative. That was the only prayer before the Id.CIT(E), however, the counsel, who had appeared before the Id.CIT(E) was unable to convey the true grievance before him, for which the Id.CIT(E) had held the application of the assessee to be non-

maintainable.

5. Having heard the parties, we are of the considered view that the position of law should be once again submitted before the Id.CIT(E) and he should adjudicate *denovo* the entire matter and pass an order as per law while complying with the principles of natural justice. In view thereof, we set aside the order of the Id.CIT(E) and remand the matter back to his file as per our aforestated directions. We order accordingly. Resultantly, the grounds of appeal stands allowed for statistical purposes.

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

Order pronounced in open Court on 06<sup>th</sup> December, 2023.

Sd/-  
(G.D. PADMAHSHALI)  
ACCOUNTANT MEMBER

Sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Dated : 06<sup>th</sup> December, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "B" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary  
ITAT, Pune.