

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

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.1211 & 1212/PUN/2023

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| Chaitanya Goshala Trust, RL20, Chaitanya Sudha Bungalow, G Block MIDC, Sambhajee Nagar, Chinchwad, Pune- 411019. PAN : AACTC6592R | Vs. | CIT (Exemption), Pune. |
| Appellant | | Respondent |

Assessee by : Shri Kishor B. Phadke
Revenue by : Shri Keyur Patel

Date of hearing : 29.12.2023
Date of pronouncement : 29.12.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM :

These are the appeals filed by the assessee being aggrieved by the order passed by the ld. Commissioner of Income Tax, Exemption, Pune ['CIT, Exemption'] dated 20.09.2023.

2. First, we shall take up the appeal of the assessee in ITA No.1211/PUN/2023 for adjudication.

ITA No.1211/PUN/2023 :

3. This appeal is filed by the assessee directed against the order passed by the ld. CIT, Exemption u/s 12AB r.w.s. 12A(1)(ac)(vi) of the Income Tax Act, 1961 ('the Act').

4. Briefly, the facts of the case are that the appellant is a charitable trust registered under the provisions of Bombay Public Trusts Act, 1950 on 09.01.2020. It is formed with the objects of Indian Native Breed Cow cultivation, development, protection and awareness etc. The appellant trust had applied for grant of registration u/s 12AB r.w.s. 12A of the Act in Form 10A on 24.12.2021. Thereafter, the appellant trust had applied for grant of registration in Form 10AB on 17.03.2023. On receipt of the said application, the Id. CIT, Exemption had called for certain details vide letter dated 29.05.2023. The said letter was duly complied with by the appellant trust on 12.06.2023. However, on going through the said information filed by the assessee, the Id. CIT, Exemption had sought further information vide letter dated 06.09.2023 requiring the appellant trust to comply with the said notice on or before 11.09.2023. However, for the reasons best known to the appellant trust, the said notice remain un-responded. In the circumstances, the Id. CIT, Exemption had rejected the application filed by the appellant trust was also cancelled the provisional registration granted on 27.05.2021.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. The ld. AR submits that the appellant could not comply with the notice dated 06.09.2023 for the reasons that the appellant is not aware of the said notice and, therefore, prayed that the matter be remanded to the ld. CIT, Exemption for *de novo* consideration.

7. On the other hand, ld. CIT-DR objects to remand the proceedings for the reasons that the appellant trust could not comply with the notice of hearing dated 06.09.2023.

8. We heard the rival submissions and perused the materiel on record. On mere perusal of the impugned order, it would be clear that the ld. CIT, Exemption had rejected the application for grant of registration solely on the ground that the appellant trust could not respond to the notice of hearing dated 06.09.2023. We also note that the hearing notice dated 06.09.2023 was required to be complied with on or before 11.09.2023, which means the appellant trust was given merely 4 days to respond to the hearing notice, which is unreasonable short period of time. The Standard Operative Procedure ('SOP') issued by the CBDT dated 19.11.2020, wherein, minimum period of 15 days is required to be given to the assessee to

comply with notices u/s 142(1) from the date of issue of the notice. Recently, the Hon'ble Delhi High Court in the case of Dauphin Travel Marketing Private Limited vs. ITO in W.P.(C) 8870/2023 & CM Nos.33516-17/2023 dated 05.07.2023 taking note of this SOP held that the grant of insufficient time to respond the notice violates the principles of natural justice and, therefore, set-aside the assessment. Thus, it is clear that the appellant was given unreasonably short period of time to respond to the notice, which is against the principles of natural justice. Therefore, we are of the considered opinion that the impugned order passed by the Id. CIT, Exemption is in violation of principles of natural justice by giving unreasonable short period of time to respond the hearing notice. Therefore, we are of the considered opinion that it is most appropriate to set-aside the impugned order and remand the proceedings to the Id. CIT, Exemption for *de novo* disposal of the application in accordance with law after affording due opportunity of being heard to the appellant.

9. In the result, the appeal filed by the assessee in ITA No.1211/PUN/2023 stands partly allowed for statistical purposes.

10. Now, we shall take up the appeal of the assessee in ITA No.1212/PUN/2023 for adjudication.

ITA No.1212/PUN/2023 :

11. This is appeal filed by the assessee directed against the order passed by the ld. CIT, Exemption u/s 80G(5) of the Act rejecting the application in Form 10AD.

12. On mere perusal of the impugned order passed by the ld. CIT, Exemption, it is clear that the impugned order was passed for two reasons i.e. (i) the appellant could not respond to the notice of hearing dated 11.09.2023 and (ii) the appellant filed the application belatedly i.e. beyond six months after expiry of period of provisional approval.

13. In respect of first reasoning of the ld. CIT, Exemption, the appeal filed by the assessee against the rejection of registration u/s 12AB r.w.s. 12A(1)(ac)(vi) of the Act, the matter is restored to the file of the ld. CIT, Exemption for *de novo* disposal in accordance with law after affording reasonable opportunity of being heard to the appellant. We order accordingly.

14. In respect of second reasoning of the ld. CIT, Exemption, we are of the considered opinion that in view of the recent CBDT

Circular No.6 of 2023 dated 24.05.2023, whereby, the Board in exercise the power conferred with them had extended the time for filing the application in Form 10AB upto 30.09.2023. Therefore, in view of this CBDT Circular (supra), the second reasoning of the ld. CIT, Exemption, cannot be upheld. Thus, this ground of appeal raised by the assessee stands allowed.

15. In the result, the appeal filed by the assessee in ITA No.1212/PUN/2023 stands partly allowed for statistical purposes.

16. To sum up, both the appeals filed by the assessee stands partly allowed for statistical purposes as per terms indicated above.

Order pronounced on this 29th day of December, 2023.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th December, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.