



॥ आयकर अपीलीय न्यायाधिकरण, पुणे "बी" न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "B" BENCH, PUNE
BEFORE SHRI PARTHA SARATHI CHOUDHURY, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 1349/PUN/2023

Snigmay Foundation

B-13, Sai Garden Housing Society,

Pimple Saudagar, Pune-411027.

PAN:ABFTS4197J

..... अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax-Exemption,

Pune

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : None

Revenue by : Mr Ajay Kumar Kesari

सुनवाई की तारीख / Date of conclusive Hearing : 04/01/2024

घोषणा की तारीख / Date of Pronouncement : 04/01/2024

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By present appeal assessee impugns DIN & order No. ITBA/EXM/F/EXM45/2023-24/1056178277(1) dt. 18/09/2023 of Commissioner of Income Tax-Exemption, Pune [for short 'CIT(E)'] passed u/s 80G(5) of the Income-tax Act, 1961 [for short 'the Act']

2. In absence of appellant, the application for adjournment is rejected for the want of sufficient reasons, and proceeded to adjudicate assailed dispute *ex-parte* with the able assistance from Revenue on merits in terms of rule 24 of ITAT Rules, 1963.



3. We have heard the Ld. Mr Ajaykumar Kesari; and subject to the provisions of rule 18(7) of ITAT-Rules, 1963, perused material placed on record. We observed that, the appellant applied for 80G registration under clause (iii) of first proviso to sub-section (5) of section 80G of the Act on 25/03/2023. Upon perusal of Form 10AB and accompanying documents, the Ld. CIT(E) by issue of notice dt. 08/06/2023 called upon the appellant to substantiate its existence and genuineness of activities carried out and to furnish certain information / clarification with their respect etc., In the event of failure, the assessee vide notices dt. 10/08/2023, 14/08/2023 & 30/08/2023 was again granted opportunities to make good the shortcoming, however these notices also went futile. In absence of requisite material to enable to arrive at positive satisfaction, the Ld. CIT(E) concluded activities of the appellant as lacked from genuinity, and thus rejected to grant recognition u/s 80G(5) of the Act.

4. Apparently in the present case, there has been non-compliance to various notices issued by the Ld. CIT(E) which led to rejection to grant of 80G recognition to the appellant foundation. We however note that, during impugned proceedings the Ld. respondent has issued as many as three interlude notices one after other which do not even allow a reasonable time to the appellant to comply therewith. What constitutes a reasonable period though defined nowhere, but would depend upon nature of the statute, rights and liabilities and other relevant factors. Tax laws being welfare legislation therefore every *quasi-judicial* authority dealing under these laws is expected to observe a reasonable period in granting an opportunity of being heard to the appellant in order to enable the required compliance in true sense else it would led to sheer formalities on paper and thus render violative of principle of natural justice.



5. In our view, in the matter of registration, a reasonable and effective opportunity to the appellant is necessary to protect against arbitrary rejection by the registering authority. This also ensures that negative observations (if any) are negated by credible evidences by the appellant. Any proceedings culminated without effective notice and reasonable opportunity would be violative of principle of natural justice, which *de-facto* turns the proceedings bad in law and therefore deserving to be set-aside in view of the ratio laid down by Hon'ble Rajasthan High Court in '*Sanatan Dharm Mahaveer Dal Vs CIT*' reported in 252 ITR 46.

6. In view of the aforestated discussion, we hold that the impugned action of is violative of principle of natural justice thus deserves to be set-aside and ordered accordingly. Therefore without offering any comment on merits of the case, we deem it fit to remand the matter back to the file of Ld. CIT(E) with a direction to accord a reasonable opportunity to the appellant and to decide the issue a fresh in accordance with law, preferably in two effective hearings.

7. **Resultantly, the appeal is allowed for statistical purpose in above terms.**

U/r 34 of ITAT Rules, order pronounced in open court on this Thursday 04th day of January, 2024.

-S/d-

PARTHA SARATHI CHOUDHURY
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 04th day of January, 2024.

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

1.अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT, Pune (MH-India)

4. The CIT(E),Pune (MH-India)

5. DR, ITAT, Pune Bench 'B', Pune

6. गार्डफ़ाइल / Guard File.

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.