

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI BR BASKARAN, AM & SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No3485/Mum/2023

(निर्धारण वर्ष / Assessment Years: 2022-23)

Sunil Tibrewal Foundation House No. 208/5, Bldg No. K-8, G. No.04, Arihant compound, Kopar, Bhiwandi, Dist, Thane, Angaon, Thane	बनाम/ Vs.	CIT (Exemption) Room No. 322, 3 rd Floor, ITO, PMT Bldg, Shankar Seth Road, Pune – 411037
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABCTS7538N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Mrs. Anushree Gupta, CA
Revenue by:	Shri Dr. Kishor Dhule, CIT DR

सुनवाई की तारीख / Date of Hearing: 08/02/2024

घोषणा की तारीख /Date of Pronouncement: 14/02/2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Exemption), Pune, dated 01.08.2023 for AY 2022-23 rejecting the application filed by the assessee for regular approval u/s 12AB of the Act.

2. At the outset, the Ld. AR of the assessee stated that the assessee had been granted provisional approval/registration certificate u/s 12AB of the Act on 31.12.2021, and pursuant thereto, it applied for the regular registration u/s 12AB(1)(i)(b) of the Act in Form No. 10AD dated 01.08.2023. However, the Ld. CIT(E) rejected the application, citing the reason that the assessee has not furnished any explanations to the queries made by him. Therefore, he was pleased to reject the application filed by the AO and cancelled the provisional registration granted on 31.12.2021.



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3. According to the Ld. AR, the reason cited by Ld. CIT(E) was not factually correct. According to her, since assessee did not receive any notice through post / email, the assessee was in the dark about the purported show cause notice, supposed to have been issued by the Ld. CIT(E). In this context, it was brought to our notice that the Ld. CIT(E) has sent the notices on the wrong e-mail id SUNIL@GMEXWORLD.COM and not the correct e-mail id SUNIL@QMAXWORLD.COM. In the light of the aforesaid fact according to Ld. AR, the assessee never received any show cause notice as stated by Ld. CIT(E) and therefore could not obviously file the reply. Thus, she contends that there was violation of natural justice therefore impugned order is vitiated.

4. We have heard both the parties and perused the records. The assessee foundation was granted provisional registration on 31.02.2021 u/s 12AB of the Act and thereafter, it applied for the regular registration which was rejected and the provisional registration was also cancelled on the ground that assessee did not bother to reply to the queries of the Ld. CIT(E). However it has been brought to our notice that neither the show cause notice was never served upon the assessee by post nor on the correct email Id SUNIL@GMEXWORLD.COM. Instead it is noted that the notice from office of Ld. CIT(E) was issued on SUNIL@GMEXWORLD.COM, which is not the email id of assessee. In such scenario, we find force in the submission of the Ld. AR that in the absence of the assessee being aware of the show cause notice [issued by the Ld. CIT(E)], the assessee cannot be faulted for not responding to the queries raised by the Ld. CIT(E) which in this



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case was never conveyed to the assessee. Therefore, the impugned action of the Ld. CIT(E) cannot be sustained and therefore we are inclined to set it aside and restore the application back to the file of the Ld. CIT(E) with a direction to sent notices to the correct registered email ID of assessee, and after giving proper opportunity to the assessee, the Ld CIT(E) to pass order in accordance to law.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this 14/02/2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 14/02/2024.
KRK, (PS)

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.
- 6.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai