



॥ आयकर अपीलीय न्यायाधिकरण, पुणे 'ए' न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'A' BENCH, PUNE
BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No. 1311 & 1312/PUN/2023

Janeev Charitable Foundation

Manorama, Plot No. 25, Behind Raigad Colony,

Panchgaon Road, Kolhapur-416012.

PAN:AABTJ7868A

..... अपीलार्थी / Appellant

बनाम / V/s.

Commissioner of Income Tax

Exemption, Pune.

.....प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Mr Sarang Gudhate ['Ld. AR']

Revenue by : Mr Keyur Patel ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 27/02/2024

घोषणा की तारीख / Date of Pronouncement : 27/02/2024

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

The present twin appeals of the assessee are assailed against separate orders of Ld. Commissioner of Income Tax (Exemption), Pune ['CIT(E)'] dt. 25/08/2023 & 18/07/2023 passed u/s 12AB(4) & 80G(5) of the Income-tax Act, 1961 ['the Act'] respectively.

2. After vouching sufficiency of reasons beyond 38 & 76 days delay in instituting these twin appeals respectively, we deem it fit to condone the delay in the light of 'Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others' reported at 167 ITR 5 (SC) and proceeded for adjudicate the issues in terms of grounds of appeal.



3. Briefly stated facts borne out of these case records are;

3.1 The appellant assessee was accorded a provisional registration u/s 12AB r.w.s. 12A(1)(ac)(vi) & 80G of the Act, pursuant to which it has e-filed its application in Form No 10AB on 10/02/2023 seeking grant of regular registration u/s 12A(1)(ac)(iii) under the category of charitable trust / institution and further an application in Form 10AB on even date for recognition under clause (ii) of first proviso to section 80G(5) of the Act.

3.2 By impugned order passed u/s 12AB(4) of the Act, the Ld. CIT(E) rejected aforestated application and denied to grant 12A registration on threefold reasons (1) for not furnishing prerequisite, necessary & supportive documents as envisaged u/r 17A(2) of IT-Rules, 1962 so as to enable him to ascertain overall nature and genuinity of activities the appellant engaged into (2) for not furnishing any explanation against discrepancies emerged out of material placed on records, and (3) failure to comply therewith etc. and thus cancelled the provisions granted to it on 11/08/2022 u/s 12AB r.w.s. 12A(ac)(vi) of the Act.

3.3 During the pendency of aforestated application, in the absence of certificate of regular 12AB registration, the Ld. CIT(E) by a separate order dt. 18/07/2023 *in limine* rejected application seeking 80G(5) registration.

4. Aggrieved by the aforestated rejections and cancellation of provisional registrations granted to it, the appellant assessee has set-up these twin appeals against respective impugned orders alleging the action of Ld. CIT(E) as violative of principle of *audi alteram partem*.



5. We have heard both rival parties; and subject to the provisions of rule 18 of ITAT Rules, perused material placed on record which suggests that, the preliminary submission of the appellant did fail to give plausible response to various queries raised by the registering authority and also failed to substantiate its activities with cogent evidences so as enable him to draw a reasonable conclusion about the genuineness of the activities of the appellant. As a consequence, the Ld. CIT(E) rejected these applications after observing principle of natural justice as commanded by sub-clause (B) of section 12AB(1)(b)(ii) and by clause (ii)(b)(B) of 2nd proviso to 80G(5) of the Act r.w. proviso to rule 11AA(5) of the Income Tax Rules, 1962. This in our considered view remained flawless.

6. It is to be appreciated that, the purpose of registration of trust/fund u/s 12A/12AB and granting 80G recognition derives their spirit from Directive Principles of State Policy enshrined in our Constitution. The Govt. of India makes every endeavour to provide welfare to one and all, in view thereof the registration for public charitable funds/trusts are given in order to ensure that through these funds/trust benefits flows to entire society, thereby objective of Directive Principles of State Policy is achieved. These provisions of welfare legislation meant to enhance socio economic welfare of the society. Therefore, considering the compelling & ousting circumstance owing to which the appellant did fail to clarify the defects/discrepancies & explain, we in larger interest of justice are of considered view that, the appellant deserves one more opportunity to make good the defects/shortcomings.



7. In view thereof, without offering our comment on merits of the case, we set aside both the impugned orders and remit the matter back to the Ld. CIT(E) for *de-nova* consideration, preferably in three effective hearings to the appellant assessee in each case separately.

8. In result, both these appeals of the appellant are ALLOWED FOR STATISTICAL PURPOSE.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 27th day of February, 2024.

-S/d-

S. S. GODARA

JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI

ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 27th day of February, 2024.

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

1.अपीलार्थी / The Appellant.

4. The Pr. CIT(E), Pune

2. प्रत्यर्थी / The Respondent.

5. DR, ITAT, "A" Bench, Pune

3. The Pr. CIT, Pune

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.