

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1559/Chny/2023

Spandana Foundation,  
66, Race Course Road,  
Coimbatore – 641 018.

**[PAN: ABFTS-5974-F]**

(अपीलार्थी/Appellant)

Commissioner of Income-tax  
v. (Exemptions),  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri. V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing : 21.02.2024

घोषणा की तारीख/Date of Pronouncement : 21.02.2024

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Exemptions), Chennai, dated 12.10.2023.

2. We find that there is a delay of 15 days in filing of appeal, for which petition for condonation of delay along with reasons for delay has been filed. The assessee has stated that the appeal could not file on or before the prescribed due date for the reason that the appeal papers were sent to the

Chartered Accountant office for filing appeal, but the office of the CA has misplaced the papers which results in collection of papers once again and in the process there is a delay of 15 days. The delay is neither intentional nor for wanton of any undue benefit. Therefore, the delay may be condoned.

3. The Id. DR, on the other hand, strongly opposing petition filed by the assessee submitted that the reasons given by the assessee for non-filing of appeal on or before due date does not come under reasonable cause and thus, delay should not be condoned.

4. Having heard both sides and considered the petition filed by the assessee for condonation of delay, we are of the considered view that reasons given by the assessee for not filing the appeal within the time allowed under the Act comes under reasonable cause as provided under the Act for condonation of delay and hence, delay in filing of appeal is condoned and appeal filed by the assessee is admitted for adjudication.

5. The brief facts of the case are that, the appellant M/s. Spandana Foundation, has filed an online application in Form no. 10AB on 25.04.2023 u/s. 12A(1)(ac)(iii) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), seeking registration u/s. 12AB of the Act. The CIT(E), called upon the appellant to file necessary details in support of their application for registration of the trust u/s. 12AB of the Act, vide letter dated 23.09.2023 and the case was posted for hearing on 03.10.2023. There was no response from the applicant. Therefore, a show cause notice dated 04.10.2023, was issued and called upon the appellant to file details by 11.10.2023. Since, the appellant has failed to file necessary details, the Id. CIT(E) dismissed application filed by the assessee in Form no. 10AB, seeking registration u/s. 12AB of the Act. Aggrieved by the Id. CIT(E) order, the appellant is in appeal before us.

6. The Ld. Counsel for the assessee, Shri. S. Sridhar, Advocate, submitted that the appellant did not get sufficient opportunities from the CIT(E) to file necessary details in support of its application filed u/s. 12A(1)(ac)(iii) of the Act, due to miscommunication of notice issued by the CIT(E). The

Ld. Counsel for the assessee, further submitted that, otherwise the appellant trust has got provisional registration, which is still valid and thus, one more opportunity of hearing may be given to the appellant to go back to CIT(E) to demonstrate its case with necessary evidences in support of their application filed in Form no. 10AB seeking registration u/s. 12AB of the Act.

7. The Id. DR, on the other hand supporting the order of the Id. CIT(E) submitted that, when the case was posted for hearing, the appellant did not respond. It is the duty of the appellant to file necessary details in support of their application before the CIT(E) when the case was posted for hearing. Since, the appellant has failed to furnish necessary details, the CIT(E) has rightly rejected application filed by the assessee and their order should be upheld.

8. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The appellant trust has got provisional registration u/s. 12AB of the Act. The appellant trust has filed an application in Form no. 10AB u/s. 12A(1)(ac)(iii) of the Act on 25.04.2023

seeking permanent registration u/s. 12AB of the Act. The Id. CIT(E), has called for certain details in support of application filed by the assessee and the case was posted for hearing on 03.10.2023 by issuing the notice on 23.09.2023. Since, the appellant has not filed necessary details, a show cause notice dated 04.10.2023 was issued informing the appellant to file necessary details by 11.10.2023, considering the limitation provided in the statute for disposal of the application filed by the assessee which expires on 31.10.2023. Since, the appellant did not file necessary details, the Id. CIT(E) dismissed application filed by the assessee on 12.10.2023 for non-prosecution. No doubt it is the duty of the applicant to file necessary details in support of their application and also explain the case before the authorities as and when the case was called for. At the same time, it is the duty of the authorities to provide sufficient opportunities to the applicant to file necessary details. In the present case, on perusal of order passed by the Id. CIT(E), it is very clear that the Id. CIT(E) has given two dates of hearing with a short notice, contrary to principles of natural justice. Therefore, we are of the considered view that, the assessee deserves one more opportunity of hearing before the Id. CIT(E). Thus, we set

aside the order passed by the Id. CIT(E) dated 12.10.2023 and restore the application filed by the applicant in Form no 10AB dated 25.04.2023 u/s. 12A(1)(ac)(iii) of the Act, seeking registration u/s. 12AB of the Act to the Id. CIT(E) to consider the application filed by the assessee in accordance with law, after providing reasonable opportunity of hearing to the assessee.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21<sup>st</sup> February, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(मंजूनाथा. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 21<sup>st</sup> February, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

