

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. Nos.49&50/Kol/2024

Shree Ram Chandra Saraf Seva Nidhi.....Appellant
1/A, Vansittart Row,
Dalhousie, Kolkata-1.
[PAN: AABTS5506N]

vs.

CIT(Exemption), Kolkata..... Respondent

Appearances by:

Shri Abhishek Bansal, AR, appeared on behalf of the appellant.

Shri Rakesh Kr. Das, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 14, 2024

Date of pronouncing the order : March 14, 2024

आदेश / ORDER

Per Bench:

The present appeals have been preferred by the assessee against the separate orders both dated 19.12.2023 of the Commissioner of Income Tax (Exemption), Kolkata [hereinafter referred to as 'CIT(E)'], whereby, the applications of the assessee have been rejected for provisional registration as a charitable institution u/s 12A of the Income Tax Act (hereinafter referred to as the 'Act') and u/s 80G of the Act.

2. The ld. Counsel for the assessee has submitted that the assessee was earlier registered as a charitable institution u/s 12A of the Act w.e.f. 1991 and had also been registered u/s 80G of the Act. Subsequent to the Amendment brought into the relevant provisions of section 12A & section 80G of the Act vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020

(hereinafter referred to as 'Amendment Act of 2020') with effect from 01.04.2021, the assessee was supposed to apply a fresh for provisional registration in the relevant form (Form 10A) within three months from the 1st day of April, 2021. However, the CBDT vide Circular No. 18/2022 taking into consideration the difficulty faced by the charitable institutions and also taking note of the complexity of the provisions, extended the date for making application for provisional registration in case of institutions who were already registered/approved up to 30.09.2022. The Id. Counsel has submitted that the assessee has filed the applications for renewal of the registration as required by the Amending Act, 2020 within the limitation period. However, due to complexity of the provisions, the said applications were inadvertently moved in Form 10AB instead of Form 10A. That the Id. CIT(E) has rejected the applications of the assessee solely on this ground. It has been further submitted that if the assessee now moves a fresh application in Form 10A, that will be treated by the CIT(E) being barred by limitation.

3. Considering the overall facts and circumstances of the case and also as observed by us in many cases that due to complexity of the newly inserted provisions even the Id. CIT(E)s also could not properly interpret the same, therefore, the assessee cannot be punished on this technical ground. The impugned orders of the CIT(E) are, therefore, set aside and it is directed that the Id. CIT(E) will consider the applications filed by the assessee in Form 10AB as being filed in the relevant prescribed form which is required for making applications for the institutions who are already registered as on 01.04.2021 and the applications moved by the assessee will be treated as being moved u/s 12A(ac)(i) of the Act and under Clause (i) to the First Proviso to section 80G(5) of the Act respectively and the CIT(E) will grant the provisional

registration accordingly. The Id. CIT(E) will decide both the applications of the assessee within two months of the receipt of copy of this order.

4. In the result, the appeals of the assessee are treated as allowed for statistical purposes.

Kolkata, the 14th March, 2024.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 14.03.2024.

RS

Copy of the order forwarded to:

1. Shree Ram Chandra Saraf Seva Nidhi
2. CIT(Exemption), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches