

**।आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**NAGPUR BENCH : : NAGPUR**

**[VIRTUAL HEARING AT PUNE]**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER**  
**AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.370/NAG/2023**

**निर्धारण वर्ष / Assessment Year : N.A.**

Nageshwara Charitable Trust, 101, Laxmi Vilas Apartment, Khare Town, Rangole Marg, Dharampeth, Nagpur, Maharashtra – 440010. PAN: AAATN2648F	V s	The Commissioner of Income Tax, Exemption, Pune.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Kapil Hirani – AR
Revenue by	Shri Kailash C.Kanojiya – CIT(DR)
Date of hearing	18/03/2024
Date of pronouncement	19/03/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee against the order of Id.Commissioner of Income Tax, Exemption, Pune dated 16.10.2023 passed under section 12AB of the Act. The grounds of appeal raised by the assessee are as under :

- “1. The rejection of registration under section 12A without proper serving of notice as required by section 282 of The Income Tax Act, 1961 is not according to law.*
- 2. The rejection of registration under section 12A due to technical errors on the e-filing portal is against the principles of natural justice.*
- 3. Any other ground may please be permitted at the time of hearing.”*

**Submission of Id.AR :**

2. Ld.Authorised Representative(Id.AR) of the assessee filed written submission, relevant part of the same is reproduced hereunder :

*“A notice issued on 02.08.2023 and not sent on our registered latest email and so not received by us. It was sent on email id nageshwara ngp@bsnl.co.in instead of our registered email id ho@nageshwara.org . The earlier email was closed by BSNL long back and new email was made and updated on e-filing portal. Trust is receiving regular communications form all other offices of the Income Tax Department. This notice was not received and so could not be replied within allotted time upto 11.08.2023. A reply was submitted with all the required documents on 21.08.2023 online on the portal. Big files were sent through email on pune.cit.exmp@incometax.gov.in and all the documents including the reply was sent in a pen drive through speed post. The submission was received and accepted by the department.*

*Another notice was issued on 09.10.2023. We came to know of this notice after login on e-fling portal on 11.10.2023. Appellant tried to open the notice but the notice file in pdf format was found corrupted and could not be opened. It still shows that the same is corrupted. Immediately, on 11.10.2023, Appellant Trust applied for adjournment and requested for time till 23.10.2023, the only option left with the Appellant.*

*After subsequent login on e-filing portal, Appellant found rejection order dated 16.10.2023. Hence the response submission was auto blocked. Appellant could not submit our reply for the reasons beyond the control of the Appellant and also the Honorable CIT (Exemption). Due to this, Appellant did not receive an opportunity of being heard.”*

2.1 The ld.AR submitted that assessee is eligible for 12AB registration.

**Submission of ld.DR :**

3. Ld.Departmental Representative(ld.DR) for the Revenue submitted that sufficient opportunity was granted to the assessee. Ld.DR relied on the order of ld.CIT(E).

**Findings & Analysis :**

4. We have heard both the parties and perused the records. It is observed that assessee had not received the notice issued by ld.CIT(E) and therefore, assessee could not file the details specifically called-for by the ld.CIT(E), however, assessee had filed copy of Trust Deed, copy of note on activities. However, it is observed that ld.CIT(E) has not commented on the charitable nature of the objects. In these facts and circumstances of the case, we deem it appropriate to set-aside the order of ld.CIT(E) to ld.CIT(E) for denovo adjudication after giving opportunity of being heard to the assessee. Accordingly, grounds of appeal are allowed for statistical purpose.

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

Order pronounced in the open Court on 19<sup>th</sup> March, 2024.

Sd/-  
(S.S.GODARA)  
JUDICIAL MEMBER

Sd/-  
(DR. DIPAK P. RIPOTE)  
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19<sup>th</sup> March, 2024/ SGR\*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच, नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.