

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI
BEFORE SHRI BR BASKARAN, AM AND SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No. 3982/Mum/2023

(निर्धारण वर्ष / Assessment Year: 2022-23)

MuktisadhakShree Vasupujy SwamiShwetamber Murtipujak Jain Sangh. 502, 5 th Floor, Bhairav Darshan, Elphinstone Road, Elphinstone, Mumbai- 400013.	बनाम/ Vs.	CIT(Exemption) Room No. 601, 6 th Floor, Cumbala Hill MTNL Building, Peddar Road, Dr. Gopalrao Deshmukh Marg, Cumbala Hill, Mumbai- 400026.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAETM7147C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Shri D. C. Jain (Adv.)	
Revenue by:	Smt Sanyogita Nagpal (CIT- DR)	

सुनवाई की तारीख / Date of Hearing: 12/03/2024

घोषणा की तारीख /Date of Pronouncement: 20/03/2024

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 (Exemptions), Mumbai dated 29.09.2022 against the rejection of the application for grant of Registration u/s 12AB of the Income Tax Act, 1961 (hereinafter “the Act”).

2. At the outset, the Ld. AR of the assessee fairly admitted that the appeal has been filed after the limitation time and there were more than 340 day’s delay in filing the appeal. Drawing our attention to the affidavit filed by the trustee of the assessee, the Ld. AR pointed out that before passing the impugned order [*by rejecting assessee’s Application u/s 12AB*], the Ld. CIT(E) had issued only one notice on 22.09.2022 i.e. seven (7) day’s prior to passing of the impugned order.



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However, the assessee was not aware of such notice because a new *email Id* was created by the Ld. AR who was handling the matter at that time and the notice was sent to that email Id, which fact, assessee was not aware of. Since the assessee was in the dark as well as the Ld. AR was not vigilant, the Ld. CIT(E) has passed the impugned order on the ground that certain relevant documents was not filed by the assessee. According to the assessee, it came to know about the impugned order only on 30.09.2023 when it received notice u/s 142(1) of the Act for AY 2022-23 from the AO (regular assessment). And once it came to know that its application filed by the for Registration u/s 12AB of the Act has been rejected by Ld. CIT(E), immediately thereafter, the assessee preferred an appeal before this Tribunal through the present advocate. The assessee also brought to our notice that it was enjoying the registration u/s 12AA of the Act vide order dated 23.05.2017 from Ld. CIT(E), Mumbai. According to the Ld. AR since the delay caused (in non-filing of application before this Tribunal) was not intentional and the cause of the delay was due to the in-advertence/negligence on the part of the earlier Ld. AR [who was handling the matter before Ld CIT(E)], the assessee should not be penalized. And it was brought to our notice that the Ld. CIT(E) has rejected the application filed by the assessee (Form 10AB) for the reason that application was not complete and all the documents required to be enclosed with the application were not furnished [i.e, relevant documents mentioned in Rule 17A of the Income Tax Rules,



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1962] (hereinafter “the Rules”). We note that the assessee was enjoying registration u/s 12AA of the Act; and it is an association/sangh which is into religious as well as philanthropist activities as seen from the Memorandum of Association placed at Page No. 9 to 12 of PB. And Charity Commissioner has granted registration to the Sangh on 22.03.2012 (Page No. 13 of the PB). In the light of the aforesaid facts discussed (supra) it can be seen that the assessee/sangh would not have gained anything by not preferring the appeal before us in time or if it had got the notice from office of Ld CIT(E), about non-filing of certain documents, it would have filed the same when called upon by the Ld. CIT(E) vide notice dated 22.09.2022. Having said so, the only inference that can be drawn in such circumstances is that assessee was not aware of the notice issued on 22.09.2022 by Ld. CIT(E). And since there is reasonable cause for assessee not responding to the notice issued by Ld. CIT(E) as noted above, in the interest of justice and fair play, we are inclined to condone the delay of 340 day’s in filing of the appeal before this Tribunal. Having condoned the delay, we note that the Ld. CIT(E) has rejected the application filed by assessee for registration u/s 12AB of the Act on the reason that despite notice issued by him on 22.09.2022 (ie only one notice, seven (7) day’s before passing the impugned order) the assessee failed to file complete documents which was supposed to have been filed along with the application as required under Rule 17A(2) of the Rules. However, since we have noted that



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assessee was not aware of the notice dated 22.09.2022, the action of Ld. CIT(E) to have passed the impugned order tantamount to violation of the natural justice. Therefore, we are inclined to set aside the impugned order of the Ld. CIT(E) and restore the application before Ld. CIT(E) and direct him to de-novo decide the application for registration u/s 12AB of the Act. The assessee is directed to file the relevant documents to substantiate its eligibility for registration u/s 12AB of the Act in accordance to law. And the Ld. CIT(E) to pass order on the application filed by assessee for grant of registration after hearing the assessee in accordance to law.

3. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 20/03/2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER
मुंबई Mumbai; दिनांक Dated : 20/03/2024.
Vijay Pal Singh, (Sr. PS)

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER



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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.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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