



(Through Virtual hearing from ITAT, Pune)

**BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER AND  
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**आयकर अपीलसं. / ITA No. 230/NAG/2023**

PDKV Research & Incubation Foundation  
Krishi Nagar, Shivani Airport Area,  
Akola-444004  
PAN:AAKCP6318F

..... **अपीलार्थी / Appellant**

**बनाम / V/s.**

Commissioner of Income Tax  
Exemption, Pune.

..... **प्रत्यर्थी / Respondent**

**द्वारा / Appearances**

Assessee by : Mr Mahavir Atal ['Ld. AR']

Revenue by : Mr K C Kanojiya ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 20/03/2024

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

**आदेश / ORDER**

**PER G. D. PADMAHSHALI, AM;**

The assessee by the present appeal challenged the DIN & Order No ITBA/EXM/F/EXM45/2022-23/1051695028(1) dt. 30/03/2023 passed by the Ld. Commissioner of Income Tax (Exemption), Pune [in short 'CIT(E)'] u/s 12AB(4) of the Income-tax Act, 1961 [in short 'the Act'].

2. At the outset, after vouching sufficiency of reasons beyond undeliberate 56 days delay in instituting this appeal, in the larger interest of justice placing reliance on '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' [167 ITR 5 (SC)], we deem it fit to condone the delay.



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

3.1 The appellant is a section 8 company incorporated under the provisions of Companies Act, 2013 which on 14/10/2021 was granted a provisional registration u/s 12AB r.w.s. 12A(1)(ac)(vi) of the Act. In terms of provisional registration the assessee vide Form No 10AB on 24/09/2022 applied for grant of regular registration u/s 12A(1)(ac)(iii) under the category of charitable trust / institution.

3.2 By the impugned order passed u/s 12AB(4) of the Act, the Ld. CIT(E) rejected the said application by denying to grant regular 12A registration and further cancelled the provisional registration granted to the appellant u/s 12AB r.w.s. 12A(ac)(vi) of the Act for the solitary reason of non-furnishing of pre-requisite documents as envisaged u/s 12AB(1)(b)(i) r.w.r 17A(2) of IT-Rules, 1962 so as to enable the registering authority to ascertain overall nature and genuineness of activities the appellant engaged into and also to ascertain the compliance of such applicable requirements of any other law for the time being force which are material for the purpose of achieving appellant's objectives etc.

3.3 Aggrieved by the aforestated rejection and cancellation of provisional registration, the assessee company came in appeal with a prayer of remand by undertaking to comply with the directions and notices etc.

4. We have heard both rival parties; and subject to the provisions of rule 18 of ITAT Rules 1963, perused material placed on record which suggests that, the



preliminary submission of the appellant did fail to substantiate its activities so as to draw a reasonable conclusion about the genuineness of the activities and compliance with the applicable laws etc. As a consequence, the Ld. CIT(E) after observing principle of natural justice as commanded by sub-clause (B) of section 12AB(1)(b)(ii) r.w. proviso to rule 11AA(5) of the Income Tax Rules, 1962, rejected the application which *prima-facie* in our considered view remained flawless.

5. Admittedly the appellant failed to comply with the requirement so as to enable to draw a positive & conclusive satisfaction in terms of section 12AB(1)(b)(i) of the Act. However we note that, when first notice dt. 02/01/2023 remained un-responded, a show cause notice dt. 20/01/2023 was issued and in the event of non-compliance thereof, without further notice to the appellant the Ld. CIT(E) rejected its 12AB application for not furnishing proper note on activities the appellant has undertaken and details of workshops carried out on start-ups, its actual beneficiaries etc.

6. It is to be noted that, in the matter of registration, a reasonable and effective opportunity to the appellant is not only necessary but a must thing to protect against arbitrary rejection. This would also ensure that negative observations (if any) are negated by credible evidences by the appellant. Any proceedings culminated without effective notice and reasonable opportunity would be violative of principle of natural justice, which *de-facto* turns the proceedings bad in law and therefore deserving to be set-aside in view of the ratio laid down



by Hon'ble Rajasthan High Court in '*Sanatan Dharm Mahaveer Dal Vs CIT*' reported in 252 ITR 46.

7. In view of the aforesaid circumstances we see no reasons to reject the prayer seeking one more opportunity for making good the default. In the event without offering any comment on merits of the case, we set-aside the impugned order and remand the matter back to the file of Ld. CIT(E) for *de-nova* adjudication with a direction to accord a ONE more effective opportunity to the appellant to prove its claim and comply with the notices.

**8. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSE.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Wednesday, 20<sup>th</sup> day of March, 2024.

-S/d-

**S. S. GODARA**

**JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHSHALI**

**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 20th day of March, 2024.

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT, Pune

4. The Pr. CIT(E), Pune

5. DR, ITAT, Nagpur Bench,

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकरअपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.