



(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. 235/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 : 21/03/2024

घोषणा की तारीख / Date of Pronouncement : 21/03/2024

**आदेश / ORDER**

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

This appeal challenges the DIN & Order No ITBA/EXM/F/EXM45/2022-23/1051695817(1) dt. 30/03/2023 passed by the Ld. Commissioner of Income Tax (Exemption), Pune [in short 'CIT(E)'] u/s 80G(5)(vi) of the Income-tax Act, 1961 [in short 'the Act'].

2. At the outset, after vouching sufficiency of reasons beyond undeliberate 57 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 vide its Application No. CIT Exemption Pune/2022-23/12AA/12372 dt. 24/09/2022 in Form 10AB applied for registration u/c (iii) of first proviso to section 80G(5) of the Act.

3.2 The Ld. CIT(E) in-order to verify the objects, genuineness of activities and to ascertain the fulfilment of conditions for granting registration u/s 80G(5) of the Act, was put the appellant to a notice dt. 31/12/2022 thereby called upon certain additional documents. After examining the submission of the assessee, the Ld. CIT(E) vide para 3.1 rejected the application on appellant's failure to produce the copy of regular registration u/s 12AB r.w.s. 12A(1)(ac)(iii) or 10(23) of the Act, as the appellant was not being falling in any of the exempted category.

3.3 Aggrieved appellant came in appeal with a prayer of remand owing to its 12AB registration pending before the registering authority.

4. We have heard the rival contentions on the sole & substantive grievance; and subject to the provisions of rule 18 of ITAT Rules, 1963, perused the material placed on record. Ostensibly, the appellant company failed produce certificate of regular registration granted to it u/s 12AB r.w.s. 12A(1)(ac)(iii) of the Act, as a consequence the Ld. CIT(E) without further opportunity to the appellant rejected the application in violation of principle of natural justice as directed by clause (ii)(b)(B) of 2nd proviso to section 80G(5) of the Act.



5. We note that, the appellant's application for regular registration u/s 12AB of the Act was rejected by an order dt. 30/03/2023. When the appellant challenged the said rejection in an appeal, the Co-ordinate bench vide its order in ITA No. 230/NAG/2023 dt. 20/03/2024 remanded the matter to the registering authority for *de-nova* consideration. In these given circumstances, we therefore are of the considered view that, it shall be pre-mature to deal with the present appeal on merits as the appellant in all the fairness would be able to produce the copy of 12AB registration only when the matter is decided by the Ld. CIT(E) conclusively.

6. For the aforesaid reasons, without commenting on the merits, we deem it fit to set-aside the impugned rejection and restore the matter back to the file of Ld. CIT(E) with the direction to deal therewith a fresh in accordance with law however after considering the finality of appellant's application for registration u/s 12AB of the Act. Ergo ordered accordingly.

**7. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSES.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Thursday, 21<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 : 21th 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.