

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH: CHENNAI**

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं  
श्री मनोज कुमार अग्रवाल, माननीय लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI MANOJ KUMAR AGGARWAL, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1309/Chny/2023

M/s.Bootstrappers Research Council, v. The Commissioner of –  
Puthiya Thalaimurai Building, 25A, Income Tax (Exemption),  
N P Industrial Estate, Chennai.  
Ekkatuthangal, Chennai-600 032.  
[PAN:AAKCB 2373 A]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओरसे/ Appellant by : Shri D. Anand, Advocate  
प्रत्यर्थी की ओरसे /Respondent by : Shri Nilay Baran Som, CIT  
सुनवाई की तारीख/Date of Hearing : 19.03.2024  
घोषणा की तारीख/Dt. of Pronouncement : 21.03.2024

**आदेश / ORDER**

**PER MANOJ KUMAR AGGARWAL, AM:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Exemption), Chennai, in Application No.CIT (Exemption), Chennai/2023-24/12AA/10510 dated 27.09.2023.

**2.** The brief facts of the case are that the assessee had moved an application for registration in Form 10AB u/s.12AA(1)(ac)(iii) of the

Income Tax Act, 1961, seeking registration u/s.12AB. The application of the assessee was rejected by the CIT (Exemption), Chennai, vide his order dated 27.09.2023. Aggrieved by the said order, the assessee is in appeal and raised the following grounds of appeal:

1. *The order of the Commissioner of Income tax (Exemptions) dated 27/09/2023, purported to be under Sec.12AB of Income tax Act, 1961, rejecting the appellant's application in Form No.10AB u/s.12(1)(ac)(iii) seeking registration, is contrary to law, facts of the case and material on record.*

2. *(i) The CIT(E) is not justified in not allowing reasonable opportunity of being heard to the appellant before rejecting the application for registration u/s.12AB of the Act.*

*(ii) The CIT(E) erred in passing a rejection order within a span of ten days that too despite the appearance of the authorized representative in the interregnum for a personal hearing.*

3. *The CIT(E) failed to appreciate that the sub-sections(4) and (5) of Sec.12AB empower the CIT(E) to reject the application for registration only when (i) the activities of the trust were not genuine or were not being carried on in accordance with objects of the trust or where the activities were being carried out in a manner that the provisions of Sec.11 and 12 do not apply to exclude either whole or any part of the income due to operation of sub-section (1) of Sec.13. In the absence of any such finding by the CIT(E), rejection of application for registration under Sec.12AB is illegal and deserves to be quashed.*

4. *The CIT(E) erred in not appreciating that the assessee considered the receipt of funds from start-up India seed fund scheme on 22/3/2023 as the date on which commencement of activities have begun. Thus, the assessee has rightly filed form 10AB for regular registration within six months of commencement of activities.*

5. *The CIT (E) grossly erred in observing that the Trust failed to apply form 9A or 10 for non-application of 85% of Income as one of the reasons for rejecting the registration u/s 12AB.*

6. *The CIT(E) has failed to note that consideration of application of 85% of income towards object of the trust is within the domain of the Assessing Officer to determine the applicability of exemption u/s.11 & 12 of the Act and that this issue cannot be decider for rejection of registration u/s 12AB of the Act.*

7. *For these grounds and such other grounds as may be adduced either before or during the appeal proceedings, the Income tax Appellate Tribunal may be pleased to order cancellation of the order rejecting the appellant's request for registration u/s.12AB as null and void and to direct passing fresh order in accordance with the provisions of the Act and render justice.*

**3.** All the seven grounds of appeal herein above are revolving around the basic grievance of denial of registration u/s.12AB of the Act, and hence, are adjudicated together.

**4.** The Ld.Counsel for the assessee submitted that M/s.Bootstrappers Research Council is a Charitable Trust which was incorporated on 21.10.2021. The Trust is recognized by Ministry of Corporate Affairs, Government of India. In terms of mandates of the Ministry of Corporate Affairs, the Trust is released funds by the Ministry which in turn is to be allocated to startups in accordance and in compliance to regulations and guidelines prescribed by the Ministry of Corporate Affairs. Accordingly, vide authorization bearing No.P-38015/2/2023-Startup India dated 20.02.2023, the applicant was issued seed funds of Rs.1.26 Crs. under the Startup India Fund Scheme relevant for the year 2022-23. As per Item No.(iii) of para 3 of the said authorization, the assessee was required to utilize the said seed funds of Rs.1.26 Crs. by 31.03.2024.

**5.** The Ld.Counsel for the assessee submitted that the Ld.CIT(Exemption), Chennai, failed to appreciate that sub-section 4 & 5 of Sec.12AB of the Act, empower rejection of an application only in the event of existence of facts like the activities of the Trust not being carried out in accordance with its objects or where the activities are carried out in a manner, so that the provisions of Sec.11 & 12 of the Act, do not apply. It was contended that in the absence of any documentary evidences brought out on record by the Ld.CIT(Exemption), Chennai, in support thereof, the

impugned rejection was not correct. It was further contended that the application of the assessee was rejected before giving adequate opportunity and thus, violative of principles of natural justice available to the assessee. The Ld.Counsel for the assessee submitted that by virtue of said release of funds on 20.02.2023 (received and reflected in its bank account only on 22.03.2023), presumption of commencement of assessee's activities can be made. The Ld.Counsel for the assessee further filed a chart indicating the deployment of funds of Rs.71,50,000/- by 11.03.2024 and further expected deployments up to Rs.1.15 Crs. The Ld.Counsel for the assessee thus argued that the conclusion drawn by the Ld.CIT(Exemption), Chennai, for rejecting its application on the premise of non-commencement of activities of the Trust and that the funds were not utilized on or before 31.03.2023 was incorrect as the same was not borne from facts on record. It was submitted that the funds were allocated on 20.02.2023 (received and reflected in its bank account only on 22.03.2023), could not have been utilized on or before 31.03.2023 in a short span of just '7' days. It was also submitted that as per the mandate of the Ministry of Corporate Affairs contained in its authorization dated 20.02.2023, the assessee was required to utilize the funds by 31.03.2024. Accordingly, The Ld.Counsel for the assessee argued that the rejection by the Ld.CIT(Exemption), Chennai, dated 27.09.2023 is incorrect and deserves to be quashed.

**6.** The Ld.CIT-DR, vehemently argued in favour of the Revenue by placing reliance on the order of the Ld.CIT(Exemption), Chennai, inter alia, submitting that the assessee did not file any submissions before the Ld.CIT(Exemption), Chennai, and thus, cannot be given any relief at this stage.

**7.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. It is an undisputed fact on the case that the seed funds of Rs.1.26 Crs. allocated to the assessee by the order dated 20.02.2023 of the Ministry of Corporate Affairs (supra) came to assessee's account only w.e.f.22.03.2023 and thus, could not have been utilized before 31.03.2023. It is also an undisputed fact of the case that the said order dated 20.02.2023 mandated the assessee to utilize the impugned funds by 31.03.2024. The deployment schedule submitted by the assessee indicating utilization of funds up to 31.03.2024 cannot be routinely ignored. On the issue of affording reasonable opportunities to the assessee, it is noted from Para No.5 of the order dated 27.09.2023 that a SCN dated 18.09.2023 was issued to the assessee and which as per Para No.7 of the said SCN was to be complied on or before 21.09.2023, thus, affording the assessee mere three days to respond. The said period of just three days was far too inadequate for the assessee to have effectively and appropriately responded to the SCN. Thus, a presumption of the assessee not being given a fair and reasonable opportunity of being heard

can be safely drawn. It is also pertinent to point out that in Para No.9 of his impugned order the Ld.CIT(Exemption), Chennai, has observed that "*it is relevant to mention here that, the assessee Chartered Accountant appeared after the receipt of the SCN and during that hearing also it was communicated to the applicant to file reply to the SCN.....*" The observations goes on to indicate that the assessee had explained the facts of the case to the Ld.CIT(Exemption), Chennai, though could not file detailed reply given short time of just three days. Therefore, it is held that ends of justice would be met if the rejection order dated 27.09.2023 is set aside and the matter is restored back to the file of the Ld.CIT(Exemption), Chennai, with the directions to afford reasonable opportunity of being heard to the assessee and take a decision on its application for grant of registration u/s.12A of the Act, after considering submissions filed by the assessee. The assessee is directed to render all cooperation to the Ld.CIT(Exemption), Chennai.

**8.** In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on the 21<sup>st</sup> day of March, 2024, in Chennai.

Sd/-  
(महावीर सिंह)  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /VICE PRESIDENT

Sd/-  
(मनोज कुमार अग्रवाल)  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य /ACCOUNTANT  
**MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated:21<sup>st</sup> March, 2024.  
**TLN**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF