

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

महनीय श्री मनोज कुमर अग्रवाल, लेखक सदस्य एवं
महनीय श्री मनोमोहन दास, न्यायिक सदस्य का समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM,
AND HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ ITA No.1207/Chny/2023

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आयकर अपील सं./ ITA No.1208/Chny/2023

Blue Dot Foundation 48/1, Arcot Road, T-2, 3 rd floor, Chander Plaza, Saligramam, Chennai-600 093.	बनाम/ Vs.	CIT (Exemption), Chennai
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAETB-2873-N		
(पीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri G. Baskar (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/Respondent by	:	Shri R. Clement Ramesh Kumar (CIT) – Ld. DR

सुनवाई की तारीख/Date of Hearing	:	25-03-2024
घोषणा की तारीख /Date of Pronouncement	:	25-03-2024

आदेश / O R D E R

Per BENCH:

1. Aggrieved by denial of registrations u/s.12AB & 80G(5) by learned Commissioner of Income Tax (Exemption), Chennai [CIT(E)] vide impugned orders dated 18-01-2023 / 17-01-2023, the assessee is in further appeal before us. The Ld. AR has pleaded for another opportunity of hearing which has been opposed by Ld. CIT-DR.

2. The registry has noted delay of 225 in ITA No.1207/Chny/23 and another delay of 226 days in ITA No.1208/Chny/23, the condonation of which has been sought by the Ld. AR on the strength of the condonation petitions which is supported by separate affidavits dated 30-10-2023 filed by the Managing Trustee of the assessee trust. The same read as under: -

1. I am the Trustee of the Appellant which was formed vide a Deed of Trust dated 25.01.2021. I am handling income tax affairs of the Trust and hence am competent to swear to this affidavit.
2. Appellant obtained Form 12AA vide order dated 24.03.2021.
3. An application for registration was filed in Form 10A u/s 12A(1)(ac)(vi) on 27.06.2022. Provisional registration u/s 12A(1)(ac)(vi) was issued on 03.08.2022 from A.Yr.2023-24 to A.Yr.2025-26.
- 4 On 11.08.2022, the Appellant filed form 10AB seeking registration u/s. 12A(1)(ac)(iii). No notice of hearing was served by CIT(E) i.e. through physical mode or through e-mail. Notices dated 06.12.2022 & 03.01.2023 had been allegedly uploaded in the portal which the Appellant was not aware of.
5. An application dated 11.08.2022 had been taken up late and order passed in a hurry when there was sufficient time left to pass orders.
6. Only at the time of logging into the portal to know the status of the application, the Appellant found notices and also the order of rejection being already passed.
7. CIT(E) vide his order dated 18.01.2023 rejected the application for noncompliance of the notices sent earlier. The CIT(E) failed to grant registration for 5 years to the Appellant which is an existing Trust registered under the old provisions and hence being eligible for registration for 5 years u/s 12AB(1)(a) of the Act.
8. There was no communication of order of rejection to. The Appellant immediately took steps to file an appeal against the order of rejection.
- 9.The present appeal against the rejection order u/s. 12A(1)(Ac)(iii) of the Act dated 18.01.2023 ought to have been filed on or before 19.03.2023 but is being filed with a delay.
10. I submit that the delay in filing this appeal is neither wilful nor wanton but due to the understanding that the rejection was on technical grounds only. The Petitioner/ Appellant would be put to grave loss and hardship if the delay is not condoned. A meritorious case would be lost, if the delay is not condoned. No prejudice will be caused to the Respondent herein by condoning the delay and the balance of convenience thus lies in favour of the Petitioner.

The Ld. CIT-DR has opposed the condonation of delay and pleaded for dismissal of the appeals at the threshold. After going the contents of the petition and the affidavit, we find that apparently the assessee has not received communication of the impugned orders. It appears that

the order was uploaded on Income Tax Portal and the assessee came to know of it only after logging into the portal after some time. Considering the fact that the assessee is a trust and managed by several persons, the explanation furnished by the assessee seems plausible to us. Therefore, we condone the delay and admit both the appeals for adjudication.

3. Upon perusal of para 4 to 7 of impugned order dated 18.01.2023 disposing-off assessee's application/s 12A(1)(ac)(iii), it could be seen that the assessee was asked to furnish certain details / clarifications by letters dated 06-12-2022 and 03-01-2023. However, the assessee failed to do so and accordingly, Ld. CIT(E) held that the assessee was not interested in getting itself registered. Therefore, the application was rejected for non-compliance. The application filed for registration under 80G(5) met with similar fate. Aggrieved, the assessee is in further appeal before us. Keeping in mind the principle of natural justice and accepting the prayer of Ld. AR, the bench deem it fit to set aside the impugned orders and remit the issue of both the registrations back to the file of Ld. CIT(E) for fresh consideration with a direction to the assessee to substantiate its case. No other ground has been urged before us.

4. Both the appeals stand allowed for statistical purposes.

Order pronounced on 25th March, 2024.

Sd/-
(MANOMOHAN DAS)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

DS

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF