

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "D", MUMBAI

Before Justice (Retd.) C V Bhadang, Hon'ble President &  
Shri B R Baskaran, Hon'ble Accountant Member

ITA No.694/Mum/2024 (Assessment Year 2024-25)

|                                                                                                                                       |     |                      |
|---------------------------------------------------------------------------------------------------------------------------------------|-----|----------------------|
| Mai Hu Na Charitable Trust,<br>Casablanca Building,<br>Hiranandani Estate, G B Road,<br>Thane (West), Thane 400607.<br>PAN AAGTM9474N | Vs. | CIT- Exemption, Pune |
| (Appellant)                                                                                                                           |     | (Respondent)         |

Appellant By : Shri Prakash Mokashi  
Respondent By : Ms Sanyogita Nagpal (CIT-DR)

|                              |                                    |
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| Date of Hearing : 26.03.2024 | Date of Pronouncement : 26.03.2024 |
|------------------------------|------------------------------------|

**ORDER**

**Per Justice (Retd.) C V Bhadang :**

The challenge in this appeal by the assessee, is to the order dated 18.01.2024 by the CIT-Exemption-Pune, thereby rejecting the application filed by the appellant- assessee for registration u/s. 12A of the Income tax Act, 1961 ('Act' for short). As a result the provisional registration granted to the appellant on 27.10.2021 u/s. 12AB read with section 12A(1)(ac)(vi) of the said Act has been cancelled.

2. We have heard the parties. Perused record.
3. The appellant which is a charitable trust had filed an application for registration under clause (iii) of section 12A(1)(ac) of the said Act on

21.09.2023. Prior thereto, the appellant was granted provisional registration on 27.10.2021.

4. A perusal of the impugned order shows that the CIT-Exemption in order to verify the genuineness of the activities of the appellant and the compliance to requirements of any other law, for the time being in force as may be applicable to the trust/institution, had issued a notice to the appellant through the ITBA portal on 13.11.2023, requiring the appellant to furnish certain information/clarification as set out in para 2 of the impugned order. The appellant was required to comply by 28.11.2023. The appellant failed to respond. Hence, yet another opportunity was given to the appellant vide notice dated 15.12.2023 to show cause as to why the application should not be rejected and the provisional registration be cancelled. The impugned order records that even this notice did not evoke the necessary response. The later notice is claimed to have been served on the appellant through e-portal as well as email.

In such circumstances the CIT-Exemptions has found that in the absence of necessary particulars being furnished, the application was required to be rejected. The application came to be rejected accordingly.

5. The learned counsel for the appellant has submitted that the notice dated 13.11.2023 was not received by the Managing Trustee and the compliance of the second notice dated 15.12.2023 could not be made out of inadvertence and oversight. It is submitted that the non-compliance is neither intentional nor out of any negligence. It is submitted that notice was served on the email of the Managing Trustee which went un-noticed. It is submitted that the impugned order has a serious consequence, in as much as the provisional registration also stands cancelled. The learned counsel pointed out that the appellant trust is engaged in various philanthropic and charitable

activities and is otherwise entitled to the exemption for which an opportunity needs to be granted to the appellant to furnish the necessary information as may be required.

6. The learned CIT-DR has submitted that sufficient opportunity was granted by the CIT-Exemption and in the absence of the compliance the CIT-Exemption was left with no option than to reject the application.

7. We have considered the submissions made. It is true that twice notice was issued to the appellant. According to the appellant the second notice was sent to the email address of the Managing Trustee, which went uncomplained on account of inadvertence. It is necessary to note that the appellant did not stand to gain by not responding to the notice or making compliance as it was the appellant who was seeking the registration under the relevant provisions. Normally, in such cases, negligence or deliberate non-compliance cannot be inferred. Quite to the contrary, having regard to the circumstances as obtaining from the record, it is to be gathered that non-compliance was purely out of inadvertence. We, therefore, find that in the interest of justice and a fair disposal of the application, an opportunity needs to be granted to the appellant. We are therefore inclined to restore the application back to the file of the CIT-Exemption.

Consequently, the appeal is allowed. The impugned order is set aside. The application dated 21.11.2023 filed by the appellant is restored to the file of the CIT-Exemption for disposal according to law. Needless to mention that the appellant shall diligently prosecute the application henceforth and shall furnish necessary information/clarification as may be required.

8. In the result, the appeal stands allowed in the aforesaid terms for statistical purposes.

Order pronounced in the open court on 26<sup>th</sup> March, 2024.

Sd/-

[B R Baskaran]  
ACCOUNTANT MEMBER  
Mumbai, Dated : 26<sup>th</sup> March, 2024.  
SA

Sd/-

[Justice (Retd.) C V Bhadang]  
PRESIDENT

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'D' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)  
Income Tax Appellate Tribunal, Mumbai