

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.560/Ind/2023
Assessment Year:2021-22

Jame A Riyazul Uloom, Khasra No. 325/5/8, Nepania Road, Khajranja, Indore.	बनाम/ Vs.	CPC, Bangalore, Indore.
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAAAJ4883F		
Assessee by	Shri Manish Dafaria, CA	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	10.04.2024	
Date of Pronouncement	15.04.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 03.11.2023 passed by learned Addl./JCIT (Appeals), Varansi, which in turn arises out of intimation of assessment dated 20.09.2022 passed by CPC, Bangalore ["AO"] u/s 143(1) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2021-22, the assessee has filed this appeal on following grounds:

1. On the facts and in the circumstances of the case and in law, Ld. CIT(A) has erred in confirming the order u/s 143(1) of CPC Bangalore wherein exemption u/s 11 had been denied due to non-registration u/s 12AB w.e.f. 01.06.2020 as claimed by CPC. It is prayed that exemption u/s 11

may kindly be allowed as being registered u/s 12AA, assessee was eligible for the same.

2. The controversy in present case is the allowability of exemption u/s 11/12 of the Act. Ld. AR for assessee made oral arguments as also filed a Written-Synopsis. The Written-Synopsis filed by Ld. AR is a detailed explanation of the facts, the mistake committed at lower-level and the submissions-cum-prayer of assessee; hence the same is scanned and re-produced below:

Synopsis of the case and submission before Hon. ITAT

In the matter of:

JAME A RIYAZUL ULOOM
NEPANIA ROAD, KHAJRANA, INDORE
PAN: AAAAJ4883F
Appeal No. ITA 560/Ind/2023
AY: - 2021-22

It is most respectfully submitted in the matter as follows :

1. Assessee is a charitable organisation. For the year under consideration i.e. AY 21-22 assessee was registered u/s. 12AA of the Income tax Act with CIT Exemption Bhopal having registration no. CIT EXEMPTION BHOPAL/12AA/2020-21/A/10198 vide order dt. 29.09.2020. (Copy of registration application filed by the assessee in form 10A dt. 17.03.2020 and copy of registration order of CIT Exemption dt. 29.09.2020 are attached at P.B Page no. 89-95)

As per the order, registration u/s 12AA had been granted to assessee w.e.f. AY 2020-21 and accordingly it was available for the year under consideration i.e. A.Y. 2021-22.

2. Return of Income for AY 2021-22 had been filed by the assessee on 10.03.2022 claiming exemption of Rs. 99,13,605 u/s 11 of the Act. (Copy of ITR Acknowledgement and ITR Form – 7 is attached at P.B. Page no. 53-88)



P.B Page no. 1 of

3. The ITR had been processed by CPC Income Tax u/s 143(1). In intimation order u/s. 143(1) dt. 20.09.2022, CPC denied exemption u/s 11 to the assessee by mentioning as follows: -

In Schedule Part A General - "Details of registration or approval under Income Tax Act" details of Section 12AB or 10(23C)(iv)/10(23C)(v)/10(23C)(vi)/ 10(23C)(via) is not provided in the column "Section under which the registration is applied". The Act has been amended from 01/06/2020, and all the entities have to get new registration/approval u/s 12AB or 10(23C)(iv)/ 10(23C)(v)/ 10(23C)(vi)/ 10(23C)(via) to be eligible for exemption. Since in your case, new registration/approval details are not available, exemption claimed in Sl. No. 4i to 4viii in Schedule Part B-TI is not allowable.

(Copy of CPC Intimation u/s 143(1) dt. 20.09.2022 is attached as per Paper book Page no. 18-38, Specific mention of denial of exemption by CPC is at Page no. 35)

4. It may kindly be noted that vide Finance Act 2020, all charitable organisations registered u/s. 12AA had been required to get a new registration u/s 12AB w.e.f 01.06.2020. However, post enactment of Finance Act 2020, due to COVID pandemic, Parliament passed **Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020** (for the sake of brevity referred to as TOLA 2020) wherein the requirement for registration under new section 12AB had been made shifted from 01-06-2020 to 01.04.2021. (Section 4 clause (VI) and (VII) of TOLA 2020)

(Copy of relevant part of TOLA 2020 is attached at Paper book Page no. 39-51, Also attached at Paper book Page No. 52 is a photocopy of page 1.232 of Bharat's Income Tax Act 2023 where footnote more clearly describes the status of applicability of new section 12AB).

5. Accordingly, denial of exemption u/s. 11 by CPC vide intimation u/s. 143(1) on the ground of non registration of assessee u/s. 12AB w.e.f. 01.06.2020 was not correct.
6. Assessee filed an appeal with CIT (Appeals) against the CPC intimation order taking the ground of appeal as follows: -

Ground of Appeal Before CIT (A)

a. On the facts and in the circumstances of the case and in law, CPC Bangalore has erred in denying the exemption u/s 11 to the assessee due to non registration u/s 12AB w.e.f. 01/06/2020 whereas vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Section 12AB has been made applicable w.e.f 01/04/2021 and not from 01/06/2020 as claimed by CPC. It is prayed that exemption u/s 11 may kindly be allowed as being registered u/s 12AA, assessee was eligible for the same.

Through Statement of Facts submitted in Appeal form no. 35, CIT(Appeals) had further been informed that Assessee is a charitable institution registered u/s 12AA vide Registration No. CIT EXEMPTION BHOPAL/12AA/2020-21/A/10198 dt. 29/09/2020 w.e.f. AY 2020-21 (Copy of from 35 filed before CIT (A) attached at Paper book Page no. 12-17)

7. Before the CIT (A), assessee could not make any further submission due to hearing notice being sent to e- mail id of earlier tax consultant of assessee. Ld. CIT(A) vide order dt. 03.11.2023 dismissed the appeal of assessee without appreciating the position of law as mentioned in the appeal raised by the assessee.

(Copy of order of CIT (A) attached at Paper book Page no. 9-11)

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8. It is submitted that as the order of CPC was patently against the provision of law whereby CPC had failed to take into account the provisions of the act passed by the parliament i.e. TOLA 2020 and erroneously took date of applicability of section 12AB as 01.06.2020 – Ld. CIT(A) should have decided the case based on the correct legal provision of law even in the absence of any further submission by the assessee.
9. Now it is prayed before your Honours that CPC's intimation u/s. 143(1) dt. 20.09.2022, denying the exemption of Rs. 99,13,605 u/s. 11 to the assessee for AY 2021-22, on the ground that assessee should have got itself registered u/s. 12AB w.e.f. 01/06/2020, be declared as invalid to that extent being against the clear provisions of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and income of the assessee as per Return of Income filed may kindly be accepted.


A.R.

3. In short, the case of assessee is such that it is registered u/s 12AA of the Act vide Order dated 29.09.2020 of CIT (Exemption) Bhopal and therefore entitled to exemption u/s 11/12 w.e.f. AY 2020-21. Accordingly, the assessee claimed exemption u/s 11/12 in the return of income of AY 2021-22. However, the AO denied exemption on the mistaken understanding that w.e.f. 01.06.2020, the assessee was required to obtain registration under newer scheme of section 12AB enacted through Finance Act, 2020. The AO has, however, not taken into account that the requirement of registration u/s 12AB was although initially introduced w.e.f. 01.06.2020 but subsequently omitted with retrospective effect from 01.06.2020 and simultaneously re-introduced from 01.04.2021 by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 ["TOLA"] w.e.f. 01.04.2021 due to Covid Pandemic. The relevant provisions of TOLA are briefly re-produced below:

"CHAPTER III

AMENDMENTS TO INCOME-TAX ACT, 1961

4. *In the Income-tax Act, 1961, --*

XXX

(VI) section 12AB shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(VII) after section 12AA, the following section shall be inserted with effect from the 1st day of April, 2021, namely:-

"12AB"

4. Therefore, it is quite clear that the assessee was not required to obtain registration u/s 12AB for AY 2021-22 under consideration and the pre-

existing registration u/s 12AA was sufficient to entitle the assessee to claim exemption u/s 11 and 12. Ld. DR for revenue could not rebut or contradict this proposition. Faced with this situation, we direct the AO to allow exemption u/s 11/12 as claimed by assessee in the return of income. The assessee succeeds in appeal.

5. Resultantly, this appeal is allowed.

Order pronounced in open court on 15.04.2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 15.04.2024.
CPU/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore