

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM& SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 181 & 182/JPR/2024

Annadata Seva Sansthan Charitable Trust, PO- Khimsar Nagaur, Nagaur-341025.	बनाम Vs.	Commissioner of Income Tax (Exemption), Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AADRA7520N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Saurabh Harsh(Adv.)
राजस्व की ओरसे / Revenue by: Shri Ajey Malik, CIT (V.H.)

सुनवाई की तारीख / Date of Hearing :16/04/2024
उदघोषणा की तारीख / Date of Pronouncement: 17/04/2024

आदेश / ORDER

PER BENCH:

These two appeals have been filed by the assessee, named above. These arise out of order passed by Learned Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to as CIT(E)] dated 06.01.2024 & 30.01.2024 respectively. Vide the first mentioned order, Learned CIT has rejected the application filed by the Assessee for registration u/s. 12AA of

Income Tax Act. Vide the second mentioned order, application seeking approval under section 80G of the Act stands rejected.

2.1 In ITA No. 181/JPR/2024, the assessee has raised following grounds:-

“ 1. That on the facts and circumstances of the case and in law the Id. CIT(E) grossly erred in rejecting the application filed by the assessee appellant u/s 12AB of the Act vide impugned ex-parte order dated 06.01.2024.

2. The appellant craves leave to add, alter modify or amend any ground on or before the date of hearing.”

2.2 In ITA No. 182/JPR/2024, the assessee has raised following grounds:-

“ That on the facts and circumstances of the case and in law the Id. CIT(E) grossly erred in rejecting the application filed by the assessee appellant u/s 80G of the Act vide impugned ex-parte order dated 30.01.2024.

2. The appellant craves leave to add, alter, modify or amend any ground on or before the date of hearing.”

3. Brief facts of the appeals are that on 11.07.2023, the assessee filed online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961.

Thereupon, a letter/notice No. ITBA/EXM/F/EXM43/2023-24/1057693245(1) dated 04.11.2023 was issued at the e- mail/address

provided in the application requiring the assessee to submit certain documents/explanations by 15.11.2023, but, the assessee did not comply with said direction.

Thereafter, a reminder letter was issued to the applicant vide this office DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058278872(1) dated 28.11.2023 to submit complete details/information, on or before 06.12.2023. Since, the assessee is stated to have requested for adjournment, through DAK dated 05.12.2023, the case was adjourned on 20.12.2023 vide office DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058629650(1) dated 11.12.2023. However, even on the given date, the applicant did not furnish any details/documents. Having regard to the period of limitation, Learned CIT(E) proceeded to decide the matter on the basis of material filed by the applicant along with its application in Form no. 10AB.

4. Learned CIT was not satisfied with the version of the assessee. Therefore, he rejected the application vide impugned order dated 06.01.2024, with the following reasons:-

-Incomplete from 10AB.

-In the absence of this information the genuineness of the activity carried out was not verifiable.

-there is no dissolution or irrevocability clause in the memorandum of association/trust deed.

While the above said application seeking registration was rejected , the application for registration u/s. 80G of the Act was also rejected, due to the following reasons: -

“From the above, it is evident that the provisions of clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act, prescribed various time limit within which the applicant/assessee is required to file application for approval of Trust/Institution depending upon the various circumstances mentioned therein. In the present case, the applicant/assessee is provisionally registered u/s clause (iv) of first proviso to sub-section (5) of sec. 80G of the Act and therefore, the applicant/assessee was required to file application in Form No. 10AB u/s clause (iii) of first proviso to sub- section (5) of sec. 80G of the Act within the time period of at least six months prior to expiry of period of the provisional approval or within six months of commencements of its activities, whichever is earlier. From the provisions of clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act, it is evident that the time limits prescribed therein is mandatory and the Commissioner of Income Tax has no power to condone the delay in filing application in Form No. 10AB.”

5. Learned AR for the assessee has requested for reasonable opportunity of being heard before Learned CIT(E) so that they are able to produce all the relevant material there.

6. Per contra, Learned DR has relied on the orders of the Id. CIT(E) and submitted that even though various opportunities were given to the

assessee, required details and documents were not furnished, and therefore, the prayer deserves to be rejected.

7. Arguments heard. File perused.

8. As noticed above, Learned CIT(E) has rejected the applications of the assessee u/s 12AB and under clause (iii) of first proviso to sub-section (5) of Section 80G of the Act, mainly on the ground that that the applicant failed to submit the requisite details and documents, despite notices and opportunities, and failure to justify delay of more than 6 months between commencement of activity and in filing of application for regularization of provisional registration.

9. Having regard to all the facts and circumstances of the case, we are of the considered view that the assessee needs to be provided another opportunity to submit the requisite informations and details so that the applications are decided after due deliberation and application of mind to the entire relevant material.

Result

As a result, without going into the merits of the case, both the appeals are allowed and while acceding to the only request made on behalf of the assessee for another opportunity to the assessee for

production of entire relevant material/documents and furnishing of requisite information, before Learned CIT(E), we hereby restore the matters to the files of Learned CIT(E) with the direction to grant to the assessee an opportunity of being heard in respect of both its applications.

10. While parting with the order, we may make it clear that our decision to restore the matter back to the files of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

Both the appeals of the assessee i.e. ITA No. 181/JPR/2024 and ITA No. 182/JPR/2024 are accordingly allowed for statistical purposes.

Order pronounced in the open court on 17/04/2024.

Sd/-
(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्रकुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 17/04/2024

*Santosh

आदेश की प्रतिलिपिअग्रेहित / Copy of the order forwarded to:

1. The Appellant- Annadata Seva Sansthan Charitable Trust, Nagaur.
2. प्रत्यर्थी / The Respondent- CIT(Exemption), Jaipur.
3. आयकरआयुक्त / The Id CIT

4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर /DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 181 & 182/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar