

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1541/CHNY/2023

**M/s. Sai Saranagathi
Charitable Foundation,**
77, Nungabakkam High Road,
Chennai – 600 034.

**The Commissioner of
Income Tax Exemptions,**
Vs. Ward 1,
Chennai.

PAN: ABJCS 2443N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing

: 17.04.2024

घोषणा की तारीख/Date of Pronouncement

: 17.04.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Exemption), Chennai in Form 10AD of the Income Tax Act, 1961 (hereinafter the 'Act') vide Application No.CIT(Exemption), Chennai/2023-24/12AA/1088 dated 28.11.2023.

2. The first issue in this appeal of assessee is that the CIT(Exemption) erred in not allowing opportunity of being heard or represent, in violation of principles of natural justice. For this, assessee has raised the following grounds 1 to 3:-

“1. The CIT had erred in mentioned that note on activities done in last 3 years, reply to the questionnaire, date of commencement of activities and supporting documentation were not submitted by the appellant. The appellant objects to same as they were all submitted in the response submitted on 30.10.23

2. The appellant did not receive communication of office letter dated 16.11.2023 and hence, could not respond to the same before 22.11.2023 and the CIT had erred in holding that the same was communicated to the appellant.

3. The CIT also erred in not giving an opportunity of being heard to the appellant. The appellant objects to the same”

4. The brief facts are that the assessee filed an online application for registration u/s. 80G in Form No.10AB under clause (iii) of first proviso to section 80G(5) of the Act on 19.05.2023. While processing the application in Form 10AB, the CIT(Exemption) noticed certain deficiencies in the documents enclosed by the assessee along with its Form 10AB. Hence, the CIT(Exemption) vide letter dated 18.10.2023 through e-Filing / ITBA portal requested the assessee to furnish the relevant documents/details and its clarification, either by uploading online in the e-filing portal or by post on or before 30.10.2023. In response, assessee filed its submissions through e-

filing portal/ITBA on 30.10.2023. The CIT(Exemption) on perusal of submissions, noticed that assessee has not furnished notes on activities done in last three year, premises with name board of trust/institution and date of commencement activity. Therefore, he issued show cause notice and granted one more opportunity to file the said details on or before 22.11.2023 either in person or through an authorized representative or by uploading online in the e-filing portal. The CIT(Exemption) stated that the show-cause notice was duly served on the assessee by e-mode through ITBA/e-filing portal. However, there is no response from the applicant. Therefore the CIT(Exemption) passed order in Form No.10AD vide dated 28.11.2023 rejecting the application for the reason that the assessee failed to comply with the notices in spite of reasonable opportunities afforded to it by observing as under:-

“7. It is clear from the above that the applicant failed to comply with the notices sent, in spite of reasonable opportunities afforded. For want of the necessary particulars, the above referred application in Form No.10AB filed by the applicant on 19.05.2023 could not be processed as per the provisions of section 80G of the I.T. Act.

8. As the applicant has failed to fulfil the statutory requirements in spite of affording reasonable opportunities, its application in Form No.10AB dated 19.05.2023, seeking approval u/s.80G(5) of the I.T. Act, 1961 is rejected for non-compliance.’

Aggrieved, assessee came in appeal before us.

5. We have heard Ld.CIT-DR and gone through facts and circumstances of the case. We noted that the CIT(Exemption) has issued letters dated 18.10.2023 and 16.11.2023 requesting the assessee to file the required documents on or before 18.10.2023 and 22.11.2023 respectively. But assessee claimed that it has not received the communication dated 16.11.2023 and hence could not respond to the same before 22.11.2023 and the CIT(Exemption) has not given an opportunity of being heard to the assessee. We are of the considered view that the assessee was not allowed reasonable opportunity of being heard and hence, we set aside the order of CIT(Exemption) dated 28.11.2023 and remand the matter back to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee in accordance with law.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 17th April, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 17th April, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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