

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA Nos.534/Chny/2023

Chennai South Fellowship,
Plot No.38, Royal ECR Compound,
Muthukadu,
Chennai 603 112.

Vs. The Commissioner of Income Tax
(Exemptions)
Chennai.

[PAN: AACTC 5288N]

ITA No.535/CHNY /2023

Chennai North Fellowship,
6B/3, Doshi Flats,
59, Chetty Street,
Ayanavaram,
Chennai 600 023.

Vs. The Commissioner of Income Tax
(Exemptions)
Chennai

[PAN AACTC 4833D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. Deepak John, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 15.04.2024

घोषणा की तारीख /Date of Pronouncement

: 09.05.2024

आदेश / O R D E R

MANU KUMAR GIRI (Judicial Member)

These appeals by separate assesseees are preferred against separate orders of Commissioner of Income Tax (Exemptions) (in short the "CIT(E))

Chennai of even date 10.03.2023. The facts and issues are identical in both the appeals. First, we take up ITA No.534/CHNY/2023.

2. The short grievance of the assessee is that the CIT(E), has rejected the application filed by assessee in form 10AB for registration under section 12A(1)(ac)(iii) of the Income Tax Act (hereinafter referred to as 'Act') which deals with the cases where trust / institution is registered u/s.12AB of the Act and an application is to be made when the period of said registration is due to expire at least six months prior to expiry of the said period. The application was rejected since the assessee failed to furnish copy of form No.10A and copy of registration in form No.10AC. Accordingly, the application was held to be non-maintainable.

3. From records, it emerges that the assessee filed Form 10A registration on 22.02.2020. This Form 10A was rejected by the CIT(E) vide order dated 21.09.2020 for the reason that the assessee trust did not respond to various notices sent by CIT(E). The assessee preferred rectification application u/s.154 of the Act on 02.08.2021. The application dated 24.07.2021 has been placed on record at page 70 to 78 of paper book.

4. In Id. Authorized Representative submitted that assessee Trust filed its returns of Income for the assessment years 2020-21 and 2021-22, which was processed under section 143(1) of the Act on 01.06.2022 treating the Trust

as registered under section 12A of the Act. Further, intimation under section 143(1) of the Act for the assessment year 2022-23 has been issued on 17.03.2023 again treating the Trust as Registered under section 12A of the Act.

5. The Id. Authorized Representative thus submitted that the assessee was under bonafide belief that it is registered under section 12A of the Act, Accordingly, it applied for regular registration under section 12A(1)(ac)(iii) of the Act on 30.09.2022 which has been rejected erroneously without considering the outcome of rectification application filed u/s.154 of the Act. The Id. AR prayed that this application is to be considered in the light of outcome of rectification application filed u/s.154 of the Act.

6. The Senior Departmental Representative justified rejection on the ground that assessee Trust does not have provisional approval u/s. 12A of the Act. Further, the assessee has not preferred any appeal against the said order dated 21.09.2020 hence subsequent impugned orders dated 10.03.2023 are valid as per law.

7. We have carefully considered rival submissions in the light of above admitted factual matrix. We find that when a petition under section 154 of the Act dated 24.07.2021 which has been filed prior in time on 02.08.2021 is still pending adjudication before the Ld. CIT(E). The outcome of the same would

have material bearing on present application, otherwise it will lead to inconsistency, incongruity and amount to forfeiting the statutory remedies of the assessee. Therefore, we restore the matter of registration back to the file of Id. CIT(E) for fresh consideration in the light of adjudication to assessee's application u/s.154 of the Act after providing the assessee trust an adequate and proper opportunity of being heard. We make it clear that we have not made any comment on the merits of the petition filed under section 154 of the Act and it is left to the wisdom of the Ld. CIT(E) to decide in accordance with law. Similar directions are issued in ITA No.535/Chny/2023.

8. In the result, appeals of the assesseees in ITA Nos. 534 & 535/CHNY/2023 are allowed for statistical purposes.

Order pronounced on the 9th day of May, 2024, at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई /Chennai:

दिनांक/ Dated : 09-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER