

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.237/PUN/2024 (E-Appeal)

Smt. Mangla Ramniwas Mandhani ABMM Awas Yojana Foundation, House No.1-28-4118/3, Karwa Nagar, Jalna – 431 203 Maharashtra PAN : ABJCS3083L	Vs.	CIT(Exemption) Pune
Appellant		Respondent

Assessee by : Shri Anand Partani &
Shri Santosh Garud
Revenue by : Shri Keyur Patel
Date of hearing : 15.05.2024
Date of pronouncement : 15.05.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order passed by the Id. Commissioner of Income Tax, Exemption, Pune [‘the CIT, Exemption’] dated 16.12.2023 rejecting the provisional registration granted to the appellant trust u/s.12AB r.w.s. 12A(1)(ac)(vi) of the Income Tax Act, 1961 (‘the Act’).

2. Briefly, the facts of the case are that the appellant is a charitable Trust formed with the object of providing relief to poor and deserving persons by way of giving reliefs for setting up homes and hostels for

women, orphans old age homes, day care centres and such other facilities for senior citizens and measures etc. The appellant trust had applied for grant of provisional registration u/s.12A(1)(ac)(vi) of the Act in Form 10AC which was granted to it on 22.09.2022. Thereafter, the appellant trust had applied for grant of final registration in Form 10AB on 28.08.2023. On receipt of the said application, the Id. CIT, Exemption, in order to verify the genuineness of activities of the assessee, issued a notice through ITBA postal on 25.10.2023 calling for certain information/clarification. The appellant trust had complied with the said notice by submitting the details. However, the Id. CIT, Exemption sought to issue another notice on 17.11.2023 requiring the appellant trust to comply with the said notice on or before 24.11.2023. There was no further compliance to the notice. In the circumstances, the Id. CIT, Exemption had rejected the application cancelling the provisional registration granted on 22.09.2022.

3. Being aggrieved, the appellant is in appeal before us in the present appeal.

4. The Id. AR submits that the appellant could not comply with the notice dated 17.11.2023 as the e-mails were being checked by the staff assisting the Director and the staff went on leave due to Diwali festival. This resulted in non-compliance to the notice. It is also submitted that reasonable time was not granted for compliance, therefore, prayed that

the matter be remanded to the Id. CIT, Exemption for *de novo* consideration.

5. On the other hand, Id. CIT-DR objects to remand the proceedings for the reason that the appellant trust could not comply with the notice of hearing dated 17.11.2023.

6. We heard the rival submissions and perused the materiel on record. On mere perusal of the impugned order, it would be clear that the Id. CIT, Exemption had rejected the application for grant of registration solely on the ground that the appellant society could not respond to the notice of hearing dated 17.11.2023. We also note that the hearing notice dated 17.11.2023 was required to be complied with on or before 24.11.2023, which means the appellant trust was given merely 7 days to respond to the hearing notice, which is unreasonably short period of time. The Standard Operative Procedure ('SOP') issued by the CBDT dated 19.11.2020, wherein, minimum period of 15 days is required to be given to the assessee to comply with notices u/s.142(1) from the date of issue of the notice. Recently, the Hon'ble Delhi High Court in the case of Dauphin Travel Marketing Private Limited vs. ITO in W.P.(C) 8870/2023 & CM Nos.33516-17/2023 dated 05.07.2023 taking note of this SOP held that the grant of insufficient time to respond the notice violates the principles of natural justice and, therefore, set-aside the assessment. Thus, it is clear that the appellant was given unreasonably

short period of time to respond to the notice, which is against the principles of natural justice. Therefore, we are of the considered opinion that the impugned order passed by the Id. CIT, Exemption is in violation of principles of natural justice by giving unreasonable short period of time to respond to the hearing notice. Therefore, we are of the considered opinion that it is most appropriate to set-aside the impugned order and remand the proceedings to the Id. CIT, Exemption for *de novo* disposal of the application in accordance with law after affording due opportunity of being heard to the appellant.

7. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced on this 15th day of May, 2024.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 15th May, 2024

Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune