

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.318/Nag./2023
(Assessment Year : N.A.)

Magaswargiya Bahu Uddeshiy Santha
Rengepar Kohali, Pimpalgaon / Sadak
Bhandara, Rengepar Kohali 141 804
PAN – AACTM4895M

..... Appellant

v/s

Commissioner of Income Tax
(Exemption), Nagpur

..... Respondent

Assessee by : Shri R.B. Pethe
Revenue by : Shri Kailash C. Kanojiya

Date of Hearing – 13/05/2024

Date of Order – 13/05/2024

ORDER

PER K.M. ROY, A.M.

The instant appeal has been filed by the assessee challenging the impugned order dated 19/07/2023, passed by the learned Commissioner of Income Tax (Exemption), Pune, [*"learned CIT(E)"*].

2. In its appeal, the assessee has raised following grounds:-

"1. The Hon. CIT-Exemption was not justified in rejecting the application under section 12A of the Income Tax Act 1961, without appreciating the fact that the appellant could not comply with the notice due to circumstances beyond its control.

2. The Hon. CIT-Exemption ought to have appreciated the genuineness of activity carried on by the trust by considering the facts of the case."

3. Facts in brief:- Before the learned CIT(E), the assessee had filed application No.CIT EXEMPTION, PUNE/2023-24/12AA/10618 in Form No.10AB under clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961 on 18/02/2023. The learned CIT(E) considering the, however, with a view to verify the genuineness of activities of the assessee and compliance to requirements of any other law for the time being in force by the trust / institution as are material for the purpose of achieving its objects, a notice was issued through ITBA portal on 23/05/2023 requesting the assessee to upload certain information / clarification. These information / details were called for under the provisions of section 12AB(1)(b)(i) of the Act which were required to ascertain the overall nature of the activities of the assessee and are directly relevant to the on-going proceedings. The learned CIT(E) held that the assessee failed to comply despite giving sufficient opportunities which are recorded in detail in his impugned order. Accordingly, the learned CIT(E) rejected the application of the assessee and the provisional registration granted on 21/03/2022, under section 12AB r/w section 12A(1)(ac)(vi) of the Act was also cancelled. The relevant observations of the learned CIT(E) are reproduced below:-

"3.2 Thus, the assessee has failed to furnish the details called for under the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 to verify the genuineness of activities of the trust / institution and to verify the compliance to requirements of any other law for the time being in force by the trust / institution as are material for the purpose of achieving its objects. It is clear from the above that the assessee was given sufficient opportunity to comply, but it has not complied to the same. It seems that the assessee is not having any supporting documents / evidence to submit. The assessee has failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961. Hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and the compliance to the requirements of any other law for the time being in force by the trust / institution as are material for the purpose of achieving its objects. Therefore, the undersigned has left no alternative but to reject the application."

The assessee being aggrieved by the order so passed by the learned CIT(E), filed appeal before the Tribunal.

4. During the course of hearing, the learned Counsel for the assessee submitted that the assessee had neither received any notice through e-mail in its registered mail I.D. nor through postal department and hence, none appeared on behalf of the assessee which resulted in rejection of said application by passing the ex-parte order though not on merit. He further submitted that since the assessee did not get any opportunity to present its matter before the learned CIT(E), hence, he prayed to grant one more opportunity to enable the assessee to pursue its case on merit.

5. On the other hand, the learned D.R. submitted that the learned CIT(E) has given sufficient opportunities in spite of that the assessee has not appeared before the learned CIT(E) and not filed relevant details. He strongly supported the orders passed by the learned CIT(E).

6. We have heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below. It is evident that the learned CIT(E) has passed the order ex-parte due to the non-appearance by anyone on behalf of the assessee. The learned Counsel for the assessee before us, submitted that due to some technical glitches on the ITBA portal, notices of hearing were neither received by the assessee in its registered e-mail I.D. nor was there any real time alert and, therefore, the hearing before the learned CIT(E) could not be attended. Further, now in appeal before us, the assessee is duly represented by the learned Counsel for

the assessee and wishes to pursue the process of appeal before the learned CIT(E). We also find that the learned CIT(E) has not rendered any finding on the merits and has not specifically arrived any adverse inference. Therefore, in view of the above, we deem it fit and appropriate to restore the appeal to the file of the learned CIT(E) for denovo adjudication. We direct the assessee to furnish all the details in support of its claim before the learned CIT(E) and thereafter notice of hearing be issued by the learned CIT(A). Needless to mention that no order shall be passed without affording reasonable opportunity of hearing to the parties. Further, the assessee is directed to appear before the learned CIT(E) on all the dates of hearing as may be fixed without any default. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 13/05/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 13/05/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur