

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 714/Bang/2024
Assessment Year : 2024-25

M/s. Sri Sharada Foundation Trust, Hosalingapur, Munirabad Dam, Koppal – 583 234. PAN: AAWTS4451M	Vs.	The Commissioner of Income Tax (Exemptions), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Suman Lunkar, CA
Revenue by	:	Shri Somnath .S. Ukkali, CIT – DR

Date of Hearing	:	21-05-2024
Date of Pronouncement	:	27-05-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the assessee is directed against the Ld.CIT(E), Bangalore order dated 07.03.2024 vide DIN & Order No. ITBA/EXM/F/EXM45/2023-24/1062154473(1) and Application No. CIT(EXEMPTIONS) BANGALORE/2023-24/12AA/12573 rejecting the registration u/s. 12AB of the IT Act, 1961 on the ground that application filed on 05.10.2023 is beyond the time limit specified u/s. 12A(1)(ac)(iii) of the I. Tax Act, 1961.

2. The assessee has raised the following grounds.

“1.1 The learned Commissioner of Income tax (Exemptions) has erred in not only rejecting the application filed in Form 10AB for final registration but also cancelling the provisional registration granted holding that the application in form 10AB has been filed on 05.10.2023 which is beyond the time limit specified u/s 12A(1)(ac)(iii) of the Act.

1.2 The reasons given by the learned Commissioner of Income tax (Exemptions) to reject the application for grant of final registration as well as cancelling the provisional registration granted are not in accordance with the provisions of law and are to be disregarded and the impugned order passed is liable to be quashed.

1.3 In any case and without prejudice, the learned CIT(A) has erred in outrightly rejecting the application filed by the appellant for final registration and also cancelling the provisional registration granted to the appellant without providing the reasonable opportunity of being heard as prescribed in the Act. The order as passed is in gross violation of principles of natural justice and such order is liable to be quashed.

1.4 The learned CIT(exemptions) has also erred in cancelling the provisional registration granted to the appellant without complying the legal procedure as prescribed in section 12AB(1)(b)(i)of the Act. The order as passed being bad in law and such order is liable to be quashed.

1.5 In any case the cancellation of provisional registration is bad in law and the provisional registration granted to the appellant is to be restored.

2. In any case, the learned CIT(Exemptions) has erred in not appreciating the fact that

i) the appellant had initially filed the application in form 10AB on 22.09.2022 which was well within the specified time limit prescribed u/s 12A(1)(ac)(iii) of the Act

ii) such application was rejected merely on the ground of selection of wrong section code.

iii) The appellant vide order dated 21/02/2023 was allowed to file the application afresh selecting the correct section code.

iv) The revised application dated 05/10/2023 filed for final registration replaces the original application.

On proper consideration of the facts of the case, the appellant being a genuine charitable trust is entitled for final registration u/s. 12AB of the Act, and same is to be allowed to the appellant.

3. In view of the above and other grounds to be adduced at the time of hearing it is requested that the impugned order be quashed and it be held that the appellant is entitled to final registration u/s. 12AB of the Act and even the cancellation of provisional registration be also cancelled.”

3. We have heard the rival submissions and perused the material on record.

4. Further, during the course of hearing, the Ld.AR vehemently argued that the Ld.CIT(E) erred in fact and in law in cancelling the provisional registration also granted to the appellant without providing reasonable opportunity of being heard which is a gross violation of principle of natural justice and prayed to restore the provisional registration as well as the final registration.

5. We are of the opinion that, the rejection made by the CIT(E) is not justified in view of the CBDT Circular No. 07/2024 dated 25.04.2024 which read as follows:

“CIRCULAR NO. 712024 [F.NO. 173/25/2024-ITA-I]

SECTION 119 OF THE INCOME-TAX ACT, 1961 - CENTRAL BOARD OF DIRECT TAXES INSTRUCTIONS TO SUBORDINATE AUTHORITIES - EXTENSION OF DUE DATE FOR FILING OF FORM NO. IOA 1 IOAB

CIRCULAR NO. 712024 [F.NO. 173/25/2024-ITA-I], DATED 25-4-2024

On consideration of difficulties reported by the taxpayers and other stakeholders in the electronic filing of Form No. IOA/IOAB, the Central Board of Direct Taxes (the Board) in exercise of its powers under section 119 of the Income-tax Act, 1961 (the Act) extended the due date for filing Form No. IOA to 31-8-2021 by Circular No. 12/2021, dated 25-6-2021, to 31-3-2022 by Circular No. 16/2021, dated 29-8-2021, to 25-11-2022 by Circular No. 22/2022, dated 1-11-2022 and further to 30-9-2023 by Circular No. 6/2023, dated 24-5-2023, and extended the due date for filing Form No. IOAB to 30-9-2022 by Circular No. 8/2022, dated 31-3-2022 and further to 30-9-2023 by Circular No. 6/2023, dated 24-5-2023.

2. Representations have been received in the Board with a request to condone the delay in filing Form No. IOA/IOAB, as the same could not be filed in such cases within the last extended date, i.e., 30-9-2023.

3. On consideration of the matter, with a view to avoid and mitigate genuine hardship in such cases, the Board, in exercise of the powers conferred under section 119 of the Act, hereby extends the due date of making an application/intimation electronically in

- (i) Form No. IOA, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G or in case of an intimation under fifth proviso of sub-section (1) of section 35 of the Act, till 30-6-2024;*
- (ii) Form No. IOAB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, till 30-6-2024.*

4. It may be also noted that extension of due date as mentioned in paragraph 3(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of subsection (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be. Hence, in cases where any trust, institution or fund has already made an application in Form No. IOAB under the said provisions on or before the issuance of this Circular, and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. IOAB may be treated as a valid application.

4.1 Further, in cases where any trust, institution or fund has already made an application in Form No. IOAB, and where the Principal Commissioner or Commissioner has passed an order

rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date or that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No. IOAB within the extended time provided in paragraph 3(ii) i.e. 30-6-2024.

5. It is also clarified that if any existing trust institution or fund who had failed to file Form No. IOA for AY 2022-23 within the due date as extended by the CBDT Circular No. 6/2023, dated 24-5-2023 and subsequently, applied for provisional registration as a new trust, institution or fund and has received Form No. IOAC, it can avail the option to surrender the said Form No. 10AC and apply for registration for AY 2022-23 as an existing trust, institution or fund in Form No. 10A within the extended time provided in paragraph 3(i) i.e. 30-6-2024.”

6. Therefore, in view of the above CBDT Circular, the issue in dispute is remitted to the file of CIT(E) for reconsideration & to decide the same after giving an opportunity of being heard to the assessee.

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

Order pronounced in the open court on 27th May, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 27th May, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore