

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.242/PUN/2024

Vasundhara Pandit Trust, Ashiyana, 811 Law College Road, Pune- 411004. PAN : AAATV4872H	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri S. N. Puranik
Revenue by : Shri Ajay Kumar Keshari
Date of hearing : 27.05.2024
Date of pronouncement : 11.06.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 12.12.2023 passed by LD CIT(E), Pune, rejecting the application for registration u/s 12AB of the Income Tax Act & cancelling the provisional registration granted on 27.05.2021 u/s 12AB r.w.s. 12A(1)(ac)(vi) of the IT Act.

2. The appellant has raised the following grounds of appeal :-

- “1. CIT(Exemptions) has erred in rejecting Registration u/s 12AB, vide Order dated 12/12/2023.
Appellant prays for granting Registration as, Order passed by CIT(Exemptions) is without taking into cognizance of

Submission made by Assessee Trust on 11/12/2023 and on email on 11/12/2023 – before extended date 13/12/2023.

2. *Without prejudice to above Ground, CIT(Exemptions) has erred in withdrawing Provisional Registration granted on 27/05/2021.*

Appellant prays for restoration of Provisional Registration Order dated 27/05/2021, for the period for which granted.

3. *CIT(Exemptions) has erred in rejecting Registration u/s 12AB and withdrawing Provisional Registration, Violating Principals of Natural Justice, by not considering the Submissions Online and on Email on 11/12/2023.*
4. *CIT(Exemptions), Order dated 12/12/2023 may please be set aside to him for considering the submission and giving reasonable opportunity to Assessee to properly present his case.*
5. *Appellant prays to add, alter, amend, take additional grounds, submit additional evidence, and/or withdraw the ground/s, during appellate Proceedings.”*

3. Briefly, the facts of the case are that the appellant is a trust, was granted provisional registration under sub clause (vi) of clause (ac) of sub section (1) of section 12A of the IT Act on 27-05-2021 for the period from Asstt Year 2021-22 to Asstt Year 2023-24. Thereafter, the appellant trust had applied for grant of registration in Form 10AB on 07.08.2023. On receipt of the said application, ld. CIT(E), Pune had called for certain details vide letter dated 23.10.2023/07-11-2023 & 18-11-2023 respectively. Since LD CIT(E), Pune did not find any reply from assessee trust, the application filed by the appellant trust was rejected & the provisional registration granted on 27.05.2021 was also cancelled.

4. Being aggrieved, the appellant is in appeal before us in the present appeal with the above extracted grounds of appeal.

5. Learned AR submitted before us that LD CIT(E), Pune is not justified in rejecting the application filed by the assessee trust & cancelling the provisional registration already granted to the assessee trust. It was further submitted before us that the assessee trust sought adjournment for 13-12-2023 & thereafter tried to upload/furnish the desired information on income tax portal, but due to some technical glitches, remained unsuccessful & therefore a grievance was raised on the income tax portal & all the desired information & documents were also uploaded with the grievance application. By raising such grievance the assessee trust was confident that his grievance would be resolved by the Department but LD CIT(E), Pune did not have any information of all these proceedings & therefore treating that no reply has been filed, LD CIT(E), Pune rejected the application filed by the assessee trust & also cancelled the provisional registration. It was the contention of the counsel of the assessee trust that LD CIT(E), Pune erred in rejecting registration u/s 12AB of the IT Act without taking into consideration the submission made by the assessee trust on 11-12-2023 on the grievance portal of ITBA & therefore, prayed

before the bench to set-a-side the impugned order passed by LD CIT(E), Pune & further requested to remand the matter back before him for *de novo* consideration after providing reasonable opportunity of hearing to the assessee.

6. On the other hand, ld. DR objects to remand the matter back to LD CIT(E), Pune for reconsideration.

7. We have heard learned counsels from both the sides and perused the material available on record. On mere perusal of the impugned order passed by ld. CIT(E), Pune, it is clear that the impugned *ex-parte* order was passed for the reason that the appellant could not respond to the notice of hearing. We find that the appellant assessee sought adjournment for 13-12-2023 but due to some technical difficulties on the ITBA Portal the appellant assessee could not upload the desired information sought by LD CIT(E), Pune. And therefore the assessee raised grievances on the ITBA Portal complaining the difficulty faced by him. In addition all the desired information was also filed/ uploaded with grievance application. In support of this contention, the assessee also produced copy of grievance application filed by him on 11-12-2023, i.e. two days in advance from the date (13-12-2023) sought for hearing from LD CIT(E), Pune. But somehow LD

CIT(E), Pune unable to see the compliance already made by the assessee on grievance portal & due to which it was presumed by LD CIT(E), Pune, that the assessee has not complied with the notice & consequently this unfortunate *ex-parte* impugned order was passed. It is also found that the assessee filed rectification application before LD CIT(E), Pune contending that the desired information was already filed on 11-12-2023, therefore LD CIT(E), Pune was not justified in passing *ex-parte* order, but LD CIT(E), Pune refused to entertain stating that there is no provision to rectify the order in Form 10AD. We therefore find force in the arguments of the ld. counsel of the assessee that LD CIT(E), Pune erred in passing *ex-parte* order without considering the submission already made by the assessee trust. Therefore, we are of the considered opinion that it is most appropriate to set-a-side the impugned *ex-parte* order and remand the proceedings to the file of ld. CIT(E), Pune for *de novo* disposal of the application in accordance with law after affording due opportunity of hearing to the assessee. LD CIT(E), Pune shall pass order as per fact & law after providing reasonable opportunity of being heard to the assessee trust & after considering the documents furnished by the assessee. The assessee trust is also hereby directed to submit the

documents/ explanations in compliance to the notice issued by LD CIT(E), Pune on the appointed day without seeking any adjournment under any pretext, failing which LD CIT(E), Pune is at liberty to pass appropriate order as per law. We hold & direct accordingly. The grounds of appeal raised by the assessee are accordingly allowed.

8. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 11th June, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 11th June, 2024.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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