

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'B' CHANDIGARH

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 648/CHD/2023

निर्धारण वर्ष / Assessment Year : 2023-24

Mowgliaid Animal Welfare Society, House No.9, Sector 21-A, Chandigarh.	बनाम VS	The CIT (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AANAM4446Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None (Adjournment Application)

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT, DR

तारीख/Date of Hearing : 10.06.2024

उदघोषणा की तारीख/Date of Pronouncement : 11.06.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2023-24 against the order dated 13.07.2023 passed by the ld. CIT(Exemptions), Chandigarh [in short 'the CIT(E)].

2. The following grounds of appeal have been raised :

1. *That the Ld. Commissioner of Income Tax (Exemptions) has erred in law in passing an ex-parte order rejecting the registration sought under section 12AB which is against the Principals of Natural Justice and as such the order passed is arbitrary and unjustified.*

2. *That the Ld. Commissioner of Income Tax (Exemptions) has erred in rejecting the registration ex-parte only on the basis of alleged non-compliance on part of the assessee when in fact no email/notice was received by the assessee to check the portal and as such the order passed is arbitrary and unjustified.*

3. *Without prejudice to the above, the Ld. Commissioner of Income Tax (Exemptions) has erred in law as well as on facts in rejecting registration under section 12AB of the Act which is arbitrary & unjustified.*

4. *That the registration has been refused only on the basis of suspicion, conjectures and surmises stating that the applicant is not interested in pursuing the matter which is factually incorrect and as such the order refusing registration is illegal, arbitrary and unjustified.*

5. *That the order of the Ld. Commissioner of Income Tax is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.*

3. None appeared on behalf of the assessee. The ld. Counsel for the assessee has filed an application dated 08.06.2024 requesting for adjournment in the case stating that he is out of station due to family reasons. However, finding that the matter can be proceeded with in the absence of the assessee, we are doing so on the basis of the material available on record, after hearing the ld. Sr.DR.

4. The brief facts of the case, as per the impugned order are that the assessee filed application for registration u/s 12A(1)(ac)(iii) of the Income Tax Act, 1961 on 20.01.2023. On scrutiny, the ld. CIT (E), finding that the documents provided by the assessee were not sufficient for assessing the genuineness of the activities of the Trust, issued a questionnaire to the assessee, electronically through e-proceedings on e-filing Portal on 27.03.2023 to furnish the

relevant documents/details etc. by 11.04.2023. On the stipulated date i.e., 11.04.2023, neither any submission was made nor any request for adjournment/communication was made by the assessee. The assessee was again issued notices for 03.07.2023 and 11.07.2023, but the position remained the same. Accordingly, the ld. CIT(E) passed an ex-parte order rejecting the registration sought u/s 12AB of the Act, against which the assessee is in appeal before this Tribunal.

5. In the grounds of appeal, the assessee has contended that the ld. CIT(E) passed the ex-parte order on the basis of alleged non-compliance on the part of the assessee; that no e-mail/notice was received to check the Portal; that the impugned ex-parte order was passed on the basis of suspicion, conjectures and surmises that the assessee was not interested in pursuing the matter.

6. The ld. DR could not rebut the aforesaid factual position.

7. We have heard the parties and have perused the material on record. It is found that various notices, fixing the date of hearing, were issued through e-proceedings on e-filing Portal. The assessee has contended that no such notice of hearing was ever received. Merely uploading of information about the date of

hearing on the Income Tax Portal is not an effective service of notice. The matter now stands covered by the decision of the Hon'ble jurisdictional High Court in the case of 'Munjil BSU Centre of Innovation and Entrepreneurship, Ludhiana through its authorized signatory Shri Bharat Goyal Vs Commissioner of Income Tax (E), Chandigarh', in CWP 21028-2023 (O&M), wherein, vide order dated 04.03.2024, their Lordships have held that the provisions of Section 282(1) of the Income Tax Act and Rule 127(1) of the Income Tax Rules, 1962, envisage that it is essential that before any action is taken, a communication of the notice must be in terms of these provisions; that these provisions do not make mention of communication to be "deemed" by placing the notice on the e-portal of the Department; that an pragmatic view has always to be adopted in these circumstances; that an individual or a company is not expected to keep the e-portal of the Department open all the times so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms, etc.; and that the principles of natural justice are inherent in the Income Tax provisions and the same are required to be necessarily followed. Accordingly, the impugned order of the ld.CIT(E) is, hereby set aside with a direction to the ld.CIT(E) to decide the appeal of the assessee

afresh after giving proper and adequate opportunity to the assessee to present its case. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(E).

8. The appeal of the assessee is allowed for statistical purposes.

Order pronounced on 11.06.2024.

Sd/-

**(KRINWANT SAHAY)
ACCOUNTANT MEMBER**

Sd/-

**(A.D.JAIN)
VICE PRESIDENT**

“Poonam”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar