

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.178/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2023-2024)

Kalinga Institute of Industrial Technology, Patia, Bhubaneswar	Vs	CIT(Exemption), Hyderabad
PAN No. :AAATK 8724 H		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	None
राजस्व की ओर से /Revenue by	:	Shri Sanjay Kumar, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	19/06/2024
घोषणा की तारीख/Date of Pronouncement	:	19/06/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 08.03.2024, passed by the CIT(Exemption), Hyderabad in DIN & Notice No.ITBA/EXM/F/EXM45/2023-24/1062246514(1).

2. None appeared on behalf of the assessee even the case was called for the second round, however, an adjournment application has been filed seeking adjournment. The ground taken for adjournment, in our opinion, is not a plausible one; therefore, we reject the adjournment application and proceed to dispose off the appeal of the assessee after considering the facts of the present case and submissions of the Id. Sr.DR.

3. Ld. CIT-DR submitted that the Id. CIT(E) has rightly denied the registration u/s.80G(5) of the Act as the application of the assessee-society was filed beyond the prescribed time limit as per the Finance Act,

2020. Thus, it was the prayer that the order of the Id. CIT(E) deserves to be upheld.

4. We have considered the submission of the Id. Sr. DR and gone through the facts of the present case carefully. On perusal of the order of the Id. CIT(E) clearly shows that the application of the assessee filed in Form No.10AB for registration has been rejected. However, the assessee before the Id. CIT(E) relying on the decision of the coordinate bench of the Tribunal in the case of T.B.Lulla Charitable Foundation, passed in ITA No.1220/PUN/2023, order dated 05.01.2024, agitated that the phrase “within six months of commencement of activities” is applicable to the newly registered trust or the trusts which are yet to commence its activities and not to the trust which is carrying on the activities since a long period. In the present case, it is undisputed that the assessee is having registration u/s.12A of the Act. Considering the fact that the assessee has registration u/s.12A of the Act and also considering that the CBDT has issued Circular No.7/2024, dated 25.04.2024 extending the due date for filing of the Form No.10B upto 30th June, 2024 and under similar circumstances in the case of Bhoomishri Public Charitable Trust, passed in ITA No.106/CTK/2024, the coordinate bench of the Tribunal has already taken a view as follows :-

5. We have heard rival contentions and perused the material available on record. From the order of the Id. CIT(E), it appears that the application of the assessee was rejected solely on the ground that the Form 10AB was filed beyond the prescribed time limit as provided by the Finance Act, 2020. The CBDT Circular No.7/2024 has addressed this issue by which the time limit for filing Form 10AB is extended upto 30.06.2024. Since in this case, the order has already been passed by the Pr.CIT rejecting the application filed by the assessee, normally we would have set aside the order

of the Id. CIT(E) and direct the assessee to file a fresh application in view of the Circular issued by the CBDT, referred to supra. This would only lead to multiple filings before the Id. CIT(E). This being so, in view of the Circular issued by the CBDT and also being live to the Circular issued by the CBDT in para 4.1, we set aside the order of the Id. CIT(E) and restore the issues to the file of Id.CIT(E) to readjudicate the issue holding the application of the assessee as being within time in view of the above mentioned Circular.

5. With the similar directions as given by the coordinate bench of the Tribunal in the above case, the issues in this appeal are restored to the file of Id. CIT(E) for readjudication after granting the assessee adequate opportunity of being heard.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 19/06/2024.

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 19/06/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Kalinga Institute of Industrial Technology,
Patia, Bhubaneswar
2. प्रत्यर्थी / The Respondent-
CIT(Exemption), Hyderabad
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack