

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.456/Chny/2024

Tamilnadu State Council for
Science and Technology,
Directorate of Technical Education
Campus, Guindy,
Chennai 600 025.

Vs. The Commissioner of Income Tax
(Exemptions)
Chennai.

[PAN: AAHAT 8813G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri. M. Karunakaran, Advocate
: Shri. Nilay Baran Som, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 13.06.2024

घोषणा की तारीख /Date of Pronouncement

: 19.06.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

The captioned appeal has been filed by the assessee against the order of the
Id. Commissioner of Income Tax (Exemptions), Chennai dated 10.11.2023
challenging rejection of its application filed on 29.05.2023 in Form No. 10AB u/s
12A(1)(ac)(iii) of the Income Tax Act ('Act' in short)for non-compliance.

2. The registry has noted delay of 43 days in filing the appeal. Ld. Counsel for the assessee has filed affidavit of the secretary of the appellant. The said affidavit is as under:

“I, Dr. R. Srinivasan son of Sri Ramasamy working as Member Secretary in the Office of the Tamilnadu State Council for Science and Technology, Directorate of Technical Education Campus, Guindy, Chennai-600025 do hereby solemnly affirm and sincerely state as follows:-

- 1. I am the Dr. R. Srinivasan, Member Secretary of Tamilnadu State Council for Science and Technology is the appellant and well acquainted with the facts of the case.*
- 2. I submit that the order of the Commissioner of Income- tax (Exemptions), Chennai rejecting the application filed in Form 10AB for granting permanent registration u/s 12AB was received on 10/11/2023 and the appeal to the ITAT should have been filed by 09/01/2024 but it is filed now with a delay of 96 days.*
- 3. I submit that we were under the bonafide impression that all the Income-tax matters are handled by the Chartered Accountant appointed by us and under the said bonafide impression, the order rejecting the application sent to the e-mail id of the Council was not seen by the appellant.*
- 4. I further submit that only when the representative visited the office of the Commissioner of Income-tax (Exemptions) to know the status of the application filed in Form 10AB, he came to know that order was already passed rejecting the application and the order was sent to the e-mail of the appellant.*
- 5. The appellant thereafter prepared the appeal and filed the same and this has caused the delay of 96 days.*
- 6. I submit that the above delay was neither willful nor wanton but due to above bonafide reasons.*
- 7. I further submit that the appellant is very much interested in getting the permanent registration and therefore there was no willful default in responding to the notices issued by the respondent.*
- 8. I further submit that if the delay is not condoned the appellant would be put to great inconvenience and hardship apart from financial strain to the appellant funded by the Tamilnadu State Government.*
- 9. I therefore humbly pray that the delay of days in filing the appeal may kindly be condoned and the same may be admitted and decided on merits and render justice”.*

3. The assessee submits that the delay caused is for sufficient reason and also supported by the affidavit. Considering the reasons given in affidavit by secretary of

appellant and adopting pragmatic approach as mandated by the Hon'ble Supreme Court in the case of *Collector, Land Acquisition v Mst. Katiji And Others- [167 ITR 471 (SC)]*, the delay 43 days in filing of the appeal is condoned and appeal is admitted for adjudication.

4. The appellant has taken eight grounds of appeal which are as under:

- '1. The learned Commissioner of Income-tax (Exemptions) is not justified in rejecting the application for registration filed u/s 12AB for want of response to the notices issued.*
- 2. The appellants submit that the two notices issued by the Commissioner of Income-tax (Exemptions) was through the e-mail id of the appellant which was not seen by the appellant.*
- 3. The appellants submit that it is an organization funded by the Tamilnadu State Government and managed by the Officials. They were under the bonafide impression that all income-tax matter would be attended by the Chartered Accountants appointed by them. The appellant has therefore not seen the notices sent by the Commissioner of Income-tax (Exemptions), Chennai.*
- 4. The appellants submit that it is eager to get permanent registration under section 12AB and therefore if the notices are seen by it, definitely it would have responded to the same.*
- 5. The appellants submit that if the notices were sent by speed post it would have responded to them.*
- 6. The appellants submit that the non response to the notices issued by the Commissioner of Income-tax (Exemptions) was due to above bona fide reasonable cause and not wilful or wanton and therefore the same may be excused.*
- 7. The appellants therefore submit that the Commissioner of Income- tax (Exemptions) may be requested to provide another opportunity to the appellant and the appellant undertakes to submit all the details that are required for granting permanent registration u/s 12AB of the Act.*
- 8. The appellants pray that the ex-parte order of the Commissioner of Income-tax (Exemptions) passed u/s 12AB may be set aside and the appellant may be granted another opportunity to represent its case before him and the appellants undertake to furnish the required details for getting permanent registration u/s 12AB of the Act and render justice''.*

5. The Id. Counsel for the assessee has submitted that the alleged two notices were served on the email id of the appellant which were not seen by the appellant,

hence he prayed for an opportunity of hearing before the Ld.CIT(E). The Id.DR on the other hand relied on the impugned order.

6. We have heard the rival submissions, perused the record, impugned order. It is an undisputed fact on record that the notices were sent by the Id.CIT (E) on the email id of the appellant.

7. It is a matter of admitted fact that the appellant had filed an application for registration u/s 12A(1)(ac)(iii) in Form No. 10AB on 29.05.2023 before CIT(E), Chennai. However, the CIT(E) passed the order under Form 10AD rejecting the application filed in Form 10AB due to non-compliance of the notices as per para 7 of the impugned order. Para 7 of impugned order is as under:

''7. It is clear from the above that the applicant failed to comply with the notices sent, in spite of reasonable opportunities afforded. In the light of the above facts, it appears that the applicant trust/society/institution is not interested in getting itself registered u/s 12AB of the I.T. Act. For want of the necessary particulars, the above referred application in Form No. 10AB filed by the applicant on 29.05.2023 could not be processed as per the provisions of section 12AB of the I.T. Act''.

8. It is seen that the application for final registration under form 10AB was filed on 29.05.2023 and was getting barred by limitation on 30.11.2023. However, the Id.CIT(E) decided the application only by providing opportunities as per the order sheet dated 17.10.2023 and 31.10.2023 at the fag end of limitation.

9. In our considered view, the Ld.CIT(E) should have given proper and adequate opportunity to the assessee keeping in mind the principles of natural justice.

10. Accordingly, we set aside and restore the application u/s 12AB back to the file of the Ld.CIT(E) with a direction to send notices on the assessee through registered email ID, eportal or as per provisions of the Act and pass speaking order after giving adequate opportunity to the assessee as per law. Thus, the matter is restored to the CIT(E), Chennai.

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

Order pronounced in the open court on 19th day of June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :19-06-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF