

**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.442/Chny/2024**

Women's Organisation for Rural  
Development,  
Plot No.24, N.R. Nagar,  
Villianur Commune Panchayat,  
Puducherry 605 110.

**[PAN: AAAAW 7491C]**

(अपीलार्थी/Appellant)

**Vs.** The Income Tax Officer,  
Exemptions Ward-1,  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. Kathir, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. Nilay Baran Som, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 12.06.2024

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 21.09.2022 challenging rejection of its application filed on 30.03.2022 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 457 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, ROCHE VICTOR, S/o. Selvanathan, aged about 73 years, residing at 20, First Cross Street, Gnanaprakasam Nagar, Puducherry-605 008 presently at Chennai do hereby solemnly and sincerely affirm and state as under:*

*I am the Secretary of the Appellant which was registered under Societies Registration Act, 1860 vide a Certificate of Registration of Societies bearing S. No. 34 of 1988 dated 17-09-1988 granted by Registrar of Companies, Pondicherry. I am handling income tax affairs of the Trust and hence am competent to swear to this affidavit.*

*2. An application for registration was filed in Form 10A u/s. 12A(1)(ac) (vi) of the Act on 18.09.2021. Provisional registration u/s. 12A(1)(ac) (vi) of the Act was granted on 02.10.2021 in Form 10AC from A.Yr.2022-23 to A. Yr.2024-25. This order was served on the appellant's e-mail ID registered in its e-filing portal account (i.e.) word\_india@yahoo.com.*

*3. On 30.03.2022, the Appellant filed form 10AB seeking registration u/s.12A(1)(ac)(iii) of the Act. Hearing notices were issued by the CIT(E) and served only on the e-filing portal account of the appellant. Since the notices were not issued to the appellant's registered e-mail address, the appellant was unaware of the same and could not reply. The CIT(E) then proceeded to pass the impugned order dated 21.09.2022 order in Form 10AD rejecting the application for non-compliance.*

*4. It may be noted at this point that at the time of registration of trust, communication relating to provisional registration in Form 10AC was received by the Appellant on 02.10.2021 for 12AB and 15.10.2021 for 80G in registered email id word\_india@yahoo.com. However notices seeking details have not been sent by email to the Appellant. Form 10AD order too states that the notices were served through ITBA/e-filing portal. Thus, since there was no real time intimation to the Appellant, the Appellant could not respond to the notices uploaded on the portal and the order of rejection came to be passed.*

*5. Thereafter, assessment proceedings were initiated in the appellant's case for the A.Y.2022-23. In the said proceedings, the Assessing Officer (AO) vide show-cause notice dated 03.02.2024 directed the appellant to show cause as to why the gross receipts of the appellant should not be brought to tax as the registration was cancelled by the CIT(E). It was only at this point that the appellant came to know of the order of the CIT(E) dated 21.09.2022. Since there was no real time intimation to the Appellant, the Appellant could not respond to the notices uploaded on the portal and the order of rejection came to be passed.*

*6. Thus, the appellant was aware of the impugned order having been passed only on 03.02.2024. The present appeal against the rejection order in Form 10AD dated 21.09.2022 ought to have been filed on or before 20.11.2022 but is being filed on 20.02.202 with a delay of 457 days.*

*7. I submit that the delay in filing this appeal is neither wilful nor wanton but due to non-receipt of the order in its registered email id. The Appellant came to know of such notices and order only after receiving the show-cause notice dated 03.02.2024. Immediately the Appellant took steps to file an appeal. The Petitioner / Appellant would be put to grave loss and hardship if the delay is not condoned.*

*A meritorious case would be lost, if the delay is not condoned. No prejudice will be caused to the Respondent herein by condoning the delay and the balance of convenience thus lies in favour of the Petitioner.*

*8. In view of the above, it is prayed that this Hon'ble Tribunal may be pleased to*

*a. condone the delay of 457 days in filing the appeal;*

*b. Admit, hear and dispose of the appeal in accordance with law; and*

*c. Pass such further or other order or orders that this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.*

*9. I declare, verify and state that what is stated in paragraphs 1 to 7 above are true to the best of my knowledge and belief".*

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 457 days in filing of the appeal is condoned and appeal is admitted for adjudication.

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

*1. The order of CIT(E) is wrong, illegal and liable to be quashed.*

*2. The order of CIT(E) in rejecting the application of the Appellant without giving an opportunity to represent is void ab initio.*

*3. The CIT(E) failed to serve the notices physically or to the registered email ID of the Appellant.*

*4. The CIT(E) failed to note that mere upload of notice in ITBA Portal cannot constitute a notice nor service as per the provisions of section 282 of the Act.*

*5. The impugned order passed by CIT(E) depriving the Appellant an opportunity to participate in the proceedings is in violation of principles of natural justice.*

*6. The Appellant prays to add any other ground".*

5. The Id. Counsel for the assessee has submitted that the alleged notices were issued only on the online portal which was not served on the registered email id and

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 issued by the Id.CIT (E) on the online portal.

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 30.03.2022 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 30.03.2022 could not be processed as per the provisions of section 12AB of the I.T. Act.*

*7. As the applicant has failed to fulfil the statutory requirements inspite of affording reasonable opportunities, its application in Form No. 10AB dated 30.03.2022 seeking registration u/s. 12AB of the I.T. Act, 1961 is rejected for non-compliance. However, no adverse inference is drawn against existing and valid registration, if any, as per law u/s. 12AB".*

8. It is seen that the application for final registration under form 10AB was filed on 30.03.2022 and was getting barred by limitation on 30.09.2022. However, the Id.CIT(E) decided the application only by providing opportunities as per the order sheet dated 20.08.2022, and 03.09.2022 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

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

**Sd/-**

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

न्यायिक सदस्य / JUDICIAL MEMBER