

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA Nos.87 & 88/Ind/2024
(Assessment Year: 2024-25)

Shrestha Kanoon Sewa Sansthan, 301-303 Rajnigandha Appartment, Green Garden Estate City Centre, Gwalior	Vs.	CIT Exemption, Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAXCS4682C		
Assessee by	Shri Venus Rawka, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	13.06.2024	
Date of Pronouncement	13.06.2024	

ORDER

Per Vijay Pal Rao, JM :

These two appeals by the assessee are directed against two separate orders of CIT (Exemption) dated 07.12.2023 whereby the applications of the assessee in Form No.10AB for registration u/s

12 AB & approval u/s 80G(5) were rejected. The assessee has raised following grounds of appeal:

1. The Ld. Commissioner of Income-tax (Exemption) erred in rejecting the application filed by the appellant for approval under Section 12AB of the Act as 'non-maintainable.

2. The Ld. Commissioner of Income-tax (Exemption) erred in denying the approval under Section 12AB of the Act on the ground that there was delay on the part of the appellant in filling of the response or /incomplete response of notice issued. The Ld. Commissioner of Income-t (Exemption) failed to give opportunity of being heard.

3. That the appellant craves to leave add alter or amend any of the ground or before hearing.

2. At the time of hearing Ld. AR of the assessee has submitted that CIT (Exemption) has rejected the applications of the assessee for registration u/s 12 AB & approval u/s 80G(5) due to non submissions of the complete reply on behalf of the assessee. He has referred to the details of the notices issued by CIT (Exemption) and submitted that in response to first the assessee has filed reply which was considered by the CIT (Exemption) as incomplete and thereafter another notice was issued in response to which assessee filed an application for adjournment and sought time to collect necessary details. However the case was again fixed within a short period of one week and assessee could not collect requisite documents. The Ld. Counsel of the assessee inadvertently did not

respond to the said notice issued by the CIT (Exemption) dated 24.11.2023 as the assessee was gathering necessary details and records to be furnished, thus the Ld. AR has submitted that it is only due to inadvertence and bonafide mistake the last notice could not be responded by the assessee and therefore the assessee be given one more opportunity to furnish the requisite details and documents for the consideration of the CIT (Exemption). He has pleaded that the impugned order may be set aside and the matter may be remanded to the record of the CIT (Exemption) for fresh adjudication after giving one more opportunity to the assessee.

3. On the other hand Ld. DR has not raised any serious objection if the matter is remanded to the record of CIT (Exemption) for fresh adjudication after giving one more opportunity to the assessee to furnish the requisite details.

4. We have considered the rival submissions as well as relevant material on record. The CIT (Exemption) rejected the application of the assessee for granting of registration u/s 12 AB & approval u/s 80G(5) vide impugned order as under:

The assessee has applied in Form 10AB for registration u/s 12AB & 80G(5) of the Act. under the new provision of Income Tax Act, 1961. Consequently, opportunity letters were issued to the assessee and various documents/details were called for, to process the said application and to verify the objects and activities of the assessee. The details of opportunity letters and response received in compliance thereof are as under:

<i>S.No</i>	<i>In respect of registration u/s 12AB & 80G(5)</i>		
	<i>Date of opportunity letters issued</i>	<i>Hearing fixed on</i>	<i>Date of reply</i>
<i>1</i>	<i>20.09.2023</i>	<i>30.10.2023</i>	<i>Incomplete reply</i>
<i>2</i>	<i>16.11.2023</i>	<i>23.11.2023</i>	<i>Adjournment letter filed</i>
<i>3</i>	<i>24.11.2023</i>	<i>01.12.2023</i>	<i>No reply received</i>

Vide above referred letters various documents/information were called for. In response to the notice dated 20.09.2023, the assessee has submitted incomplete reply. Subsequently, notice was issued on 16.11.2023 to submit the complete reply of notice 20.09.2023. However, the society has filed adjournment letter only. The assessee request for adjournment has been considered. Further, notice was issued on 24.11.2023 to submit the documents. However, the society has not submitted any reply till date.

After giving frequent opportunities, the society has not submitted the point wise reply of notice 20.09.2023. In view of the above, due to non-compliance of required documents/information filed by the assessee, the application of the assessee in Form 10AB for grant of registration u/s 12AB & 80G(5) of the Act is hereby rejected.

5. Thus it is clear that in response to the first notice assessee filed reply which was found to be incomplete by the CIT (Exemption) and thereafter, the second notice was issued for hearing on

23.11.2023 but the assessee filed adjournment letter seeking some more time to file relevant details and documents. The CIT (Exemption) fixed the hearing just after a week on 01.12.2023 which was not attended on behalf of the assessee nor any reply was filed and consequently the applications of the assessee were rejected. The assessee has explained the reasons for non response to the last notice is due to inadvertence and bonafide mistake on the part of the Ld. AR of the assessee and further the assessee was yet to gather all the relevant details and documents. Accordingly in the facts and circumstances of the case we find that the assessee deserves one more opportunity to furnish the relevant documents and details for consideration of CIT (Exemption) to satisfy himself about the charitable nature of objects and genuineness of the activities of the assessee. Hence, in the facts and circumstances of the case and in the interest of justice the impugned orders of CIT (Exemption) are set aside and both the matters are remanded to the record of the CIT (Exemption) for fresh adjudication after giving one more opportunity to the assessee to submit necessary details and records.

6. In the result the appeal of the assessee is allowed for statistical purpose.

Order is pronounced in the open court on conclusion of hearing on 13.06.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, _13.06.2024

Dev/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*