

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.614/PUN/2024

Eden Education and Research Institute Aurangabad, Rahim Nagar, Beed By pass Road Bazar, Satara – 431 001 Aurangabad, Maharashtra PAN : AAATE7724P	Vs.	The CIT (Exemption), Pune
Appellant		Respondent

Assessee by : None
Revenue by : Shri Keyur Patel, CIT-DR

Date of hearing : 25.06.2024
Date of pronouncement : 25.06.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of CIT (Exemption), Pune dated 31.01.2024 denying registration u/s.12AB of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. The appellant is a Trust registered under the Bombay Public Trusts Act, 1950. It is mainly engaged in the educational activities and running a school by name Royal Oaks World School. The appellant Trust filed application in Form No.10AB dated 29.09.2023 seeking registration u/s.12A(1)(ac)(iii) of the Act. On receipt of the said application, the Id. CIT, Exemption, in order to verify the genuineness of activities of the appellant trust, issued notice(s) through ITBA portal on 01.12.2023

calling upon the appellant to file certain information/clarification. However, for the reasons best known to the appellant trust, the appellant trust could not comply with the said notices. In the circumstances, the Id. CIT (Exemption) drew inference that the he is unable to draw any satisfactory conclusion about genuineness of activities of the appellant trust and the compliance to the requirements of any other law, thus chose to reject the application filed denying registration u/s.12AB of the Act.

3. Being aggrieved, the assessee is in appeal before the Tribunal in the present appeal.

4. When the appeal was called on, none appeared on behalf of the appellant despite due service of notice of hearing. After hearing the Id. CIT-DR and perusing the material on record, we proceed to dispose of the appeal *ex parte* qua the appellant.

5. We heard the Id. Sr. DR and perused the relevant material on record. On mere perusal of the contents of Para no. 4 of the impugned order, it would be evident that the hearing notices were sent through ITBA portal/email. In our considered opinion, it is not a valid method and manner of service of notice as specified under the provisions of section 282(1) of the Act. Therefore, it is crystal clear that the notices were not served upon the appellant trust. To fortify our view, we would like to make a reference to a decision rendered by the Hon'ble Punjab & Haryana High Court in the case of *Munjral BCU Centre of Innovation and Entrepreneurship Vs. CIT (Exemptions) (2024) 463 ITR 560 (P&H)*, wherein the Hon'ble High Court after making reference to provisions of 282(1) held that service of notice through ITBA portal is not valid service and remanded the matter to AO for *denovo* disposal of case. The relevant paragraphs of the judgment are reproduced below :

“7. We are afraid that we cannot subscribe to the submissions as advanced by the learned counsel for the Revenue-respondent. The provisions of section 282(1) of the Act of 1961 and rule 127(1) of the Income-tax Rules, 1962 provides for a method and manner of service of notice and orders which read as follows :

.....

8. In view of the above, it is essential that before any action is taken, communication of the notice must be done in terms of the provisions as enumerated hereinabove. The provisions do not mention communication to be “presumed” by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income-tax provisions and the same are required to be necessarily followed.

9. Having noticed as above, this court is of the firm view that the petitioner has not been given sufficient opportunity to put up its plea with regard to the proceedings under section 12A(1)(ac)(iii) of the Act of 1961 and as it was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.

10. In view of the above, the writ petition is allowed and the order dated January 16, 2023 (annexure P-5) is quashed and set-aside. The Department would provide an opportunity of hearing to the petitioner and they will also allow the petitioner to appear personally for the purpose and pass a speaking order independent of the order passed earlier by them on January 16,2023. The same shall be done expeditiously provided the petitioner file his reply within a period of three weeks.”

In view of the above legal position, we are of the considered opinion that the notice of hearing was not served properly to the appellant trust.

6. Furthermore, we find that the Id. CIT (Exemption), Pune had rejected the application filed by the assessee denying registration u/s.12AB without going into the merits of the application. In the light of above factual position and in order to meet the ends of justice, the matter requires remission to the file of CIT, Exemption for *denovo* disposal of

the application in accordance with law after affording an opportunity of being heard to the appellant trust.

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

Order pronounced on this 25th day of June, 2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 25th June, 2024
Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच,
पुणे / DR, ITAT, A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune