

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBE AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1000/Chny/2024**

Saraswathi Ramasamy  
Charitable Trust,  
No 59/22, Dharmar Kovil  
Street,  
Annur – 641 653.

**[PAN: AAYTS-5203-R]**

(अपीलार्थी/Appellant)

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

Commissioner of Income Tax  
v. (Exemptions),  
Chennai.

(प्रत्यर्थी/Respondent)

: Shri. N. Arjun Raj, Advocate  
: Shri. V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing : 24.06.2024  
घोषणा की तारीख/Date of Pronouncement : 26.06.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Exemptions), Chennai dated 12.12.2023 challenging rejection of its application filed on 21.06.2023 in Form No. 10AB u/s 12A(1)(ac)(iii) of the Income Tax Act ('Act' in short) for non-compliance. The assessee is in further appeal before us.

2. At the outset, it is noticed that the appeal filed by the assessee is barred by limitation by 62 days. The member of assessee trust has filed affidavit along with condonation petition stating the following reasons:

*"The captioned appeal was filed in the Registry of the Appellate Tribunal on 12.04.2024 and the said appeal was filed beyond the limitation period by 62 days. The delay in filing the appeal before the Bench was neither willful nor deliberated but due to circumstances beyond the control of the Petitioner/ Appellant.*

*The impugned rejection order dated 12.02.2023 passed by the CIT(E) ought to have been challenged on or before the prescribed due date but the appellant trust had filed the appeal with a delay of 62 days due to the reasons stated below.*

*The Appellant filed Form 10AB on 21.06.2023 seeking renewal of registration u/s 12A(1)(ac)(iii) of the Act for seeking renewal of existing Trust. Subsequently, show cause notice was issued to the appellant on 01.12.2023 requiring response on or before 07.12.2023 for which the appellant had failed to respond resulting in passing of the impugned rejection order dated 12.12.2023.*

*In this regard, it is submitted that the notices as well as the order was sent to the email id which was not properly /regularly used by the appellant trust as the Managing Trustee as well as the volunteers/staffs being residents of a remote village were not well conversant with electronic gadgets. It is further submitted that none of the email communications sent by the CIT(E) were sent to any of the email ids mentioned in the Income Tax Return of the Appellant which had the email id of the Chartered Accountant of the Appellant."*

We find the cause as reasonable and hence, condone the delay and admit the appeal.

3. Before us, the Id.AR stated that the assessee trust filed an application dated 21.06.2023 in Form No. 10AB u/s 12A(1)(ac)(iii) of the Income Tax Act. We find from the grounds that the assessee has filed all the relevant documents/details along with statutory Form No. 10AB on 21.06.2023, but the Id.CIT(E) has rejected the application for non-compliance. Hence, assessee prayed for an opportunity of hearing before the Ld.CIT(E). The Id.DR relied on the impugned order.

4. We have heard both the parties, perused the record and impugned order. It is an undisputed fact on record that the notice dated 17.11.2023 was uploaded by the Id.CIT(E) on the e-filing/ITBA portal.

5. 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 21.06.2023 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. 1 0AB filed by the applicant on 21.06.2023 could not be processed as per the provisions of section 12AB of the I.T. Act."*

6. It is seen that the application for final registration under Form 10AB was filed on 21.06.2023 and was getting barred by limitation on 31.12.2023. However, the Id.CIT(E) decided the application only by providing opportunity as per the order sheet dated 17.11.2023 at the fag end of limitation.

7. 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.

8. 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.

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

Order pronounced in the open court on 26<sup>th</sup> June, 2024 at Chennai.

**Sd/-**

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

न्यायिक सदस्य/**Judicial Member**

**Sd/-**

(एस. आर. रघुनाथा)

**(S. R. RAGHUNATHA)**

लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 26<sup>th</sup> June, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF