

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.769/Chny/2024
निर्धारण वर्ष/Assessment Year: -

TN Apex Skill Development- Centre for Logistics, Government ITI Campus, Thiru Vi Ka Industrial Estate, Guindy, Chennai-600 032.	v.	The CIT (Exemptions), Chennai.
[PAN: AAHCT 9797 R]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri A.V.Balaji, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri Nilay Baran Som, CIT
सुनवाईकीतारीख/Date of Hearing	:	22.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Exemptions), (hereinafter in short "the Ld.CIT(E)"), Chennai, dated 12.01.2023, denying registration/approval under clause (ii) of sec.80G(5) of the Income Tax Act, 1961 (hereinafter in short "the Act").

2. At the outset, it is noted that there is a delay of '375' days in filing of the appeal. The reason for the delay has been explained in an Affidavit



:: 2 ::

filed by the Managing Director of the assessee. According to the assessee, impugned order was passed by the Ld.CIT(E) on 12.01.2023 and the appeal ought to have been filed before 13.03.2023. However, according to the assessee, it was not aware of the passing of the impugned *ex parte* order passed by the Ld.CIT(E); and only when it accidentally accessed the *e-portal* of Income Tax Department, it came to know that the impugned order has been passed against assessee on 12.01.2023. According to the Ld.AR of the assessee, since, the assessee would not gain anything by not responding to the notices of the Ld.CIT(E) and the omission to check the e-mail cannot be said to be deliberate. The Ld.AR prays for restoration of application, so that the assessee would get one more opportunity before the Ld.CIT(E) and he undertakes to comply with the directions/requisitions made by the Ld.CIT(E).

3. Per contra, the Ld.DR opposes the plea of the assessee for one more innings before the Ld.CIT(E) and submitted that assessee was given proper opportunity, but failed to comply with the directions given by the Ld.CIT(E), therefore, the Ld.CIT(E) has rightly rejected the application and he does not want us to interfere with the impugned order of the Ld.CIT(E).

4. Having heard both the parties and after perusal of the records, we note that the assessee is a not-for-profit company incorporated under the



Companies Act, 2013 (18 of 2013). It is noted to be a Public Private Partnership (PPP) initiative and a Special Purpose Vehicle (SPV) formed by Tamil Nadu Skill Development Corporation (TNSDC) by Tamil Nadu State Government (GoTN) with 50% shareholding, Logistics Sector Skill Council (LSC under Ministry of Skill Development and Entrepreneurship MSDE, Government of India) with 37.5% share-holding and industrial houses with 12.5% shareholding. It is further noted that TNASDCL's primary objectives are to impart educational and skill development training in Supply Chain and Logistics using state of the art advanced cutting edge technologies; provide hands-on training and services to enhance employability mainly in the process of implementing the various skill development programmes initiated by GoTN. And it is noted that TNASDCL is managed by the Board of Directors comprising of serving civil servants from various departments of GoTN, officials from the finance department of GoTN, nominated Directors from Logistics Sector Skill Council (Under Ministry of Skill Development and Entrepreneurship, Government of India) and Industrial Houses. The Chairman of the company is the Secretary, Special Programme Implementation Department, GoTN. And as per the extant provision of the Articles of Association of the Company, the Board shall becomprising of four nominee Directors from GoTN, of which one shall be the chairman of the Company. Also, the Company was originally under Labour and



Employment (C) Department and was later brought under Special Programme Implementation Department of GoTN. The overall affairs of the company is monitored and controlled by TN Skill Development Corporation (TNSDC) of GoTN and its Managing Director shall be the nominee Director and the nodal officer of TNASDCL on behalf of GoTN.

5. It is noted that assessee TNASDCL was provisionally sanctioned exemption u/s.80G(5)(iv) dated 09/02/2022 for a period of three years from 09.02.2022 to AY 2024-25. Thereafter, the assessee filed the on-line application dated 21.07.2022 in Form 10AB under clause (iii) of first proviso to sec.80G(5) of the Act seeking regular approval u/s.80G for five years, which was rejected for non-compliance on the part of assessee pursuant to notice of the Ld.CIT(E). The Ld.AR brought to our notice that e-mail on which the notices used to be served upon was of an IAS Officer, who has been transferred and the due to some glitches went to his personal mail. In view of this factual reasons, the assessee was in the dark about the notices issued by the Ld.CIT(E). And when the assessee came to know about the event of rejection of application on 15.03.2024, immediately instructed the Ld.AR to file the appeal and the delay of '375' days happened in that process, which explanation, we find it to be reasonable and therefore, we condone the delay.



6. Since, the Ld.CIT(E) has passed an *ex parte* order qua the assessee, for the interest of justice and fair play, we deem it fit to set aside the impugned order of the Ld.CIT(E) and restore the application dated 21.07.2022, back to the file of the Ld.CIT(E) and direct the assessee to file the requisite documents called for by the Ld.CIT(E); and the Ld.CIT(E) to decide granting the approval u/s.80G(5) in accordance to law after hearing the assessee; and the Ld.AR to furnish the correct e-mail to the Office of the Ld.CIT(E).

7. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 25th day of June, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 25th June, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF