

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI  
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIALMEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4802/MUM/2023  
Assessment Year: N.A**

Shri Rishikul Brahmacharya Ashram, Nariman Point, Mumbai – 400 021  (PAN : AAATR0489E)	Vs.	Commissioner of Income Tax (Exemptions), Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri Dipen Tanna, CA  
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 04.06.2024  
Date of Pronouncement : 26.06.2024

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(Exemptions), Mumbai vide order no. ITBA/EXM/F/EXM45/2023-24/1058195873(1), dated 23.11.2023, u/s. 12AA of the Income-tax Act, 1961 (hereinafter referred to as the “Act”).

2. Grounds taken by the assessee are reproduced as under:

**1) Ground No. 1: Violation of Natural Justice (Trustee)**

*On facts and circumstances, Ld. CIT(Exemptions) has erred in passing the order without providing proper opportunity of hearing to the appellant. Such*

*denial of registration is bad in law as order is passed without opportunity of being heard and violating the principles of natural justice.*

**2) Ground No. 2: Denial of Registration u/s Section 12AA**

*On facts and circumstances, Ld. CIT(Exemptions) has erred in denying the exemption u/s 12AA and passed the order for rejecting the application in Form No. 10AB without considering the submissions made by the appellant. Such denial of registration is bad in law and appellant ought to be allowed the registration u/s 12AA*

3. In this appeal, assessee is contesting on the rejection of its application in form No.10AB for its registration u/s.12AA of the Act without considering the submissions made by the assessee and without providing opportunity of being heard, which is in violation of the principles of natural justice.

4. Brief facts of the case are that assessee filed an application in form 10AB seeking registration u/s.12AB of the Act. The said application was filed on 26.05.2023. In the acknowledgement receipt of filing of this form placed in the paper book, assessee had attached the relevant documents which include charity certificate, trust deed, annual accounts, suit papers and modified trust deed. Ld. CIT(Exemption) noted from verification of this application that it is not complete and all the documents required to be accompanying the application were not furnished. Notice was issued on the assessee dated 10.10.2023 requesting to furnish the complete set of documents as required for processing the said application. Another notice was issued on 14.11.2023 to provide further details. According to the Ld. CIT(Exemptions), assessee did not reply to the said show cause notices and has partially complied with the terms of the said notices. He, thus noted his inability to arrive at a satisfaction for granting the registration applied for by the assessee. Accordingly, application for grant of registration u/s.12AB of the Act was rejected vide order dated 23.11.2023. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us, Ld. Counsel for the assessee placed on record a paper book containing 26 pages to justify and corroborate the submissions

made before the Ld. CIT(Exemptions) which has been ignored altogether. In reference to notice dated 10.10.2023, Ld. Counsel pointed to the e-proceedings response acknowledgement dated 25.10.2023 through which assessee made all the required submissions before the Ld. CIT (Exemption). The reply along with annexure in the submission included original trust deed, modified trust deed, Form 10AC, assessee's accounts for the year 2020 to 2022, audit report, Form 10A, Form 10BB, Charity Commissioner Certificate and other relevant documents.

5.1. Further, in reference to notice dated 14.11.2023, Ld. Counsel referred to the submission filed vide e-proceedings response acknowledgement on 23.11.2023 which included statement of expenses incurred along with supporting documents. The attachments to this submission contained debit voucher of grocery items, expense summary, debit voucher of education help, medical help, debit voucher for animal treatment, for donations, for fixed assets and other assets.

6. Ld. Counsel stated that order rejecting the application by the assessee in form No.10AD was passed on 23.11.2023 by the Ld. CIT(Exemption) without taking into account all these submissions made by the assessee. According to him, Ld. CIT(Exemption) is grossly incorrect in noting that assessee has failed to furnish the required documents along with the application. He, thus strongly contended that Ld. CIT(Exemption) has grossly erred in rejecting the application without taking into cognizance the required submissions made by the assessee in the course of proceedings. According to him, the assessee ought to be granted registration as applied for.

7. Per contra, Ld. CIT, DR placed reliance on the order of Ld. CIT(Exemption).

8. Having heard both the parties, we take note of the factual status of submissions made by the assessee before the Ld. CIT(Exemption) in the course of registration proceedings. The submissions made by the assessee which are duly verifiable from the e-proceedings acknowledgement response sheets are on record. There is nothing contrary which has been brought on record by the Ld. CIT, DR on these factual aspects of the case as submitted before us by the Ld. Counsel. We also take note of the fact that assessee had moved its application for registration on 26.05.2023 and the first notice was issued by the Ld. CIT(Exemption) only in the fifth month of making the application, i.e., on 10.10.2023. It is an undeniable fact that Ld. CIT(Exemption) has rejected the application made by the assessee without looking into the submissions made by the assessee. On the contrary, while rejecting the application, Ld. CIT(Exemption) has noted that in absence of necessary compliance by the assessee, he is unable to arrive at a satisfaction on the parameters about the objects of the trust, the genuineness of the activities and the compliance of any other law for the time being in force, material for the purpose of achieving its objectives.

9. Considering the facts on record and the submissions made by Ld. Counsel before us substantiating the claim made by the assessee of due compliance made before the Ld. CIT(Exemption), we find it appropriate to remit the matter back to the file of Ld. CIT(Exemption) and direct him to take into consideration the submissions already placed on record by the assessee and grant the registration in accordance with the provisions of law. Needless to say, that assessee be given reasonable opportunity of being heard to make any further submission if so required, so as to justify its claim for

registration u/s. 12AB of the Act. Accordingly, grounds taken by the assessee in this respect are allowed for statistical purposes.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 26 June, 2024

Sd/-  
(Narender Kumar Choudhry)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 26 June, 2024***

*MP, Sr.P.S.*

**Copy to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai