

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

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JM AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.978/CHNY/2024

Treated Pumping Water Irrigation
Farmers Association,
1, Mangammal Kovil Premises,
Palladam,
Siddanaickenpalayam,
Tiruppur 641 659.

The Commissioner of Income Tax
Vs. Exemption,
Chennai.

PAN: AAIAT 9132B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri.N. Arjun Raj, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. V. Nandakumar, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 24.06.2024

घोषणा की तारीख/Date of Pronouncement

: 26.06.2024

आदेश /ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is arising out of the order of the
Commissioner of Income Tax (Exemption), Chennai in Form 10AD of the

Income Tax Act, 1961 (hereinafter the 'Act') vide Application No.CIT(Exemption), Chennai/2023-24/12AA/11335 dated 27.06.2023.

2. At the outset, it is noticed that the appeal filed by the assessee is barred by limitation by 58 days. The impugned order passed by the CIT(Exemption) dated 14.12.2023 was served on the assessee on 14.12.2023. The appeal has to be filed on or before 12.02.2024 but it was actually filed on 10.04.2024 with a delay of 58 days. The assessee has filed affidavit along with condonation petition stating the reason that due to the complexities surrounding new regime of registration and delay in the office of Chartered Accountant. The Id.CIT-DR did not seriously objected to condone the delay. We find the cause as reasonable and hence, condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is rejecting the application filed in Form No.10A u/s.12A(1)(ac)(ii) of the Act, as non-maintainable and rejected on technical ground without affording opportunity to rectify the application.

4. Brief facts are that the assessee Society was created on 10.02.2022. Form No.10AC was issued granting provisional registration for the registration period of 3 years (from AY 2022-23 to AY 2024-25). Subsequently, on 27.06.2023, six months prior to expiry of provisional registration, the assessee filed Form No.10AB seeking registration u/s.12A(1)(ac)(ii) of the Act.

The assessee received hearing notice, which was responded by the assessee but the CIT(Exemption) vide his order in Form No.10AD on 14.12.2023 rejected the assessee's application treating it as infructuous and non-maintainable by stating the reason that the assessee ought to have applied u/s.12A(1)(ac)(iii) of the Act instead of 12A(1)(ac)(ii) of the Act. The CIT(Exemption) recorded the fact and rejected the application by observing as under:-

'6. In the light of the fact that the applicant has been granted only provisional registration for a period of 3 years (from AY 2022-23 to AY 2024-2025) as stated *above*, the present application in Form 10AB filed u/s. 12A(1)(ac) (ii) seeking registration is *prima-facie non-maintainable*.

7. On careful consideration of the above facts and circumstances, the above application filed on 27.06.2023 in Form 10AB u/s.12A(1)(ac)(ii) is treated as *infructuous, non-maintainable and hence, the same is rejected for statistical purpose. However, no adverse inference is drawn against the applicant's existing and valid registration, if any, as per law u/s. 12AB*".

Aggrieved, assessee came in appeal before the Tribunal.

5. After hearing both the sides and going through the facts, it is noted that the assessee has simpliciter made a technical mistake in applying u/s.12A(1)(ac)(ii) instead of 12A(1)(ac)(iii) of the Act. It is now well settled by a series of rulings of the Hon'ble Apex Court and various High Courts in decisions as *in State of Bihar v. Kameshwar Prasad Singh [2000 (9) SCC 94]* that dismissing the statutory appeals on technical grounds of limitation would not in any way advance the interest of justice but admittedly, result in failure of justice etc. The Supreme Court has observed in numerous decisions,

including *Ramlal v. Rewa Coal fields Ltd. AIR 1962 SC 361, State of West Bengal v. Administrator, Howrah Municipality AIR 1972 SC 749 and Babutmal Raichand Oswal v. Laxmibai R. Tarte AIR 1975 SC 1297*, that the State authorities should not raise technical pleas if the citizen have a lawful right and the lawful right is being denied to them merely on technical grounds. The State authorities cannot adopt the attitude which private litigants might adopt. It is also trite law that technicalities and procedural defects, which do not go to the root of the matter, should not be permitted to defeat a just cause. It is apt to refer circular issued by *the CBDT [Circular No: 14 (XL-35) dated April 11, 1955]*. It states:

"Officers of the Department must not take advantage of ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard the Officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. This attitude would, in the long run, benefit the Department for it would inspire confidence in him that he may be sure of getting a square deal from the Department. Although, therefore, the responsibility for claiming refunds and reliefs rests with assessee on whom it is imposed by law, officers should

(a) Draw their attention to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other;

(b) Freely advise them when approached by them as to their rights and liabilities and as to the procedure to be adopted for claiming refunds and reliefs."

Hence, we set aside the order of CIT(Exemption) and remand the matter back to his file CIT(Exemption) for fresh adjudication of application

u/s.12A(1)(ac)(iii) of the Act. Accordingly, matter restored back to the file of the CIT(Exemption).

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

Order pronounced in the open court on 26th day of June, 2024 at Chennai.

Sd/-

एस.आर. रघुनाथा
(S.R. RAGHUNATHA)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 26th June, 2024

KV

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.