

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"A" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 391/JPR/2024

Manokamna Shiksha Samiti P.No.-6, 5 th Floor, Tilak Market, Opp. LBS College, Tilak Nagar, Jaipur.	बनाम Vs.	The ITO, Ward-6(1), Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAOAM1909R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Ashok Kumar Gupta (Adv.)
राजस्व की ओरसे / Revenue by: Shri Arvind Kumar (CIT)

सुनवाई की तारीख / Date of Hearing : 18/06/2024
उदघोषणा की तारीख / Date of Pronouncement : 28/06/2024

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This appeal is filed by the assessee aggrieved from the order of the Learned Commissioner of Income (Exemption), Jaipur [herein after referred to as "Id.CIT(E)"] dated 13.02.2024.

2. The assessee has raised the following grounds of appeal:-

"1. The Impugned order u/s 12AB of the Act dated 13/02/2024 is bad in law and on facts, without providing adequate & reasonable opportunity of being heard, being without jurisdiction, barred by limitation and for various other reasons illegal, bad in law, glaring violation of natural justice and hence the same may kindly be quashed.

2. The Ld. CIT(E) erred in law as well as on the facts of the case in rejecting the application for granting Registration/approval u/s 12AB. The rejection so made and refusal to grant Registration/approval u/s 12AB is contrary to the provisions of law and facts of the case. The same kindly may be quashed.

3. That the impugned order so passed was in the contravention of the law prevalent at the relevant point of time and also on fact and hence may kindly be quashed. The Id. CIT(E) may be directed to grant Registration/approval from the date of application.

4. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing.”

3. Brief facts of the case are that the assessee filed online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 was filed on 28.09.2023. A letter/notice No. ITBA/EXM/F/EXM43/2023-24/1058507334(1) dated 06.12.2023 was issued at the e-mail/address provided in the application requiring the assessee to submit certain documents/explanations by 14.12.2023, but no compliance has been made by the assessee. Thereafter, a reminder letter was issued vide letter DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1059593440(1) dated 11.01.2024 wherein date of hearing was fixed as 22.01.2024, but again no compliance has been made the assessee. Further, again one more opportunity was also provided to the assessee vide letter DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1060161420(1) dated 27.01.2024 to submit complete details/information by 08.02.2024. This

time also on given date, the assessee had not produced any details/documents. Since it is a limitation matter, therefore, the case is decided on the basis of material filed by the assessee along with its application in Form no. 10AB. It is noted that the Id. CIT(E) rejected the assessee's claim for registration u/s 12AB of the Act on the following grounds:-

- * Incomplete form 10AB
- * Rajasthan Public Trust Act, 1959.
- * Genuineness of activities.

4. Aggrieved from the order of the Id. CIT(E), the assessee preferred an appeal before us taking the ground as raised in para 2 above.

5. During the course of hearing, the Id. AR of the assessee submitted that assessee was not provided adequate opportunity of being heard. Thus, the assessee may be provided one more opportunity to advance his arguments/submissions before the Id. CIT(E) in the interest of equity and justice.

6. Per contra, the Id. DR relied on the orders of the Id. CIT(E) and submitted that three opportunities were given. If at the assessee be given an opportunity it should be with cost.

7. After hearing both the parties and perusing the materials available on record, it is noted that the application filed by the assessee for seeking registration u/s 12AA of the Act was rejected by the Ld. CIT(E) on the following grounds.

- Incomplete form 10AB
- Rajasthan Public Trust Act, 1959.
- Genuineness of activities.

Keeping in view the submissions of the Ld. AR of the assessee that he may provided one more chance to advance the above documents as desired by the ld. CIT(E) and argue the case to settle the issue in question. On the other hand, Ld. DR submitted that the assessee has not justified reasons for non compliance. Hence, in this view of the matter, we restore the matter back to the file of the Ld.CIT(E) to decide it afresh by providing one more opportunity of being heard to the assessee but at cost of Rs. 3000/- to be deposited in the Prime Minister Relief Fund. The assessee is directed to produce all the relevant papers concerning the issue in question before the ld.CIT(E) and the receipt of cost. Thus the appeal of the assessee is allowed for statistical purpose.

8. Before parting, we may make it clear that our decision to restore the matter back to the file of the ld. CIT(E) shall in no way be construed as having any

reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

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

Order pronounced in the open court on 28/06/2024.

Sd/-
(राठोड कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28/06/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Manokamna Shiksha Samiti, Jaipur
2. प्रत्यर्थी / The Respondent- ITO, Ward-6(1), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 391/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar