

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 879/CHNY/2024

**Aggrow Farmers Development
Organisation,**
D No.45/26,
Fairlawn Vinayanagar Palace Road,
Udhagamandalam,
Nilgiris – 643 001.

**The Commissioner of
Income Tax (Exemption),**
Chennai

PAN: AATCA 4730F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Girish Kumar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri Nilay Baran Som, CIT

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

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Exemption), Chennai dated 23.03.2024, rejecting Form No.10AB filed for seeking registration/approval/recognition u/s.12A(1)(ac)(iii) of the Act.

2. The only issue in this appeal of assessee is as regards to the order of CIT(E) rejecting the assessee applications filed in Form

No.10AB seeking recognition/registration for the assessee trust u/s.12A(1)(ac)(iii) of the Act and also cancelling the provisional registration granted in Form No.10AC for the reason that in the application filed in Form No.10AB, the assessee has mentioned the nature of activities as religious cum charitable but from Memorandum of Association of the Trust dated 18.05.2020, the activities of the Trust dated 18.05.2020, the activities of the trust are in the nature of charitable trust. For this, assessee has raised various grounds which are argumentative, factual and hence, need not be reproduced.

3. We have heard both the sides and gone through facts and circumstances of the case. The brief facts are that the assessee filed online application dated 30.09.2023 in Form No.10AB u/s.12A(1)(ac)(iii) of the Act, seeking registration u/s.12AB of the Act. The CIT(E) while processing the application u/s.12AB of the Act noted that the application filed in Form No.10AB by the assessee, the assessee has mentioned the nature of activities as 'religious cum charitable' but it is seen from the Memorandum of Association dated 18.05.2020 filed along with this form, the activities of the trust are in the nature of charitable trust. Hence, a show-cause notice dated 18.03.2024 was issued and the relevant test of the show-cause reads as under:-

“2. Please refer to Rule 17A of the Income Tax Rules, 1961 wherein the list of documents which are mandatorily required to be furnished along with the applications filed u/s 12A(1)(ac)(iii) are listed out.

3. It is seen from the file Form 10AB filed on 30.09.2023 you have requested registration as Religious cum Charitable trust, but on perusal of the MOA it is seen that the all the objects are charitable in nature.

4. Hence, you are requested to show cause as to why your said application should not be rejected.”

The assessee filed response on 21.03.2024 and explained that it had inadvertently and by oversight filled the column No.3 in Form No.10AB as 'religious cum charitable trust' whereas it is actually charitable trust. The CIT(E) has not accepted and without providing any opportunity rejected the application by observing in para 4.2 as under:-

4.2 As explained in para 2 of this order, as per the provisions of section 12AB(1)(b) clause (ii) (B) of the I.T. Act, 1961, if the application is made under sub-clause (ii) or sub-clause (ii) or sub-clause (v) of section 12A(1)(ac) and the Principal Commissioner or Commissioner has not satisfied, he can reject the application as well as cancel the registration of the trust/institution. In this case, the application is filed by the applicant in sub clause(i) of section 12A(1)(ac) of the I.T Act, 1961 as such the application is not maintainable for the reasons stated above in para 4.1 of this order. Hence, the application filed by the applicant on 30.09.2023 in Form No. 10AB u/s 12(1)(ac) (iii) seeking registration u/s.12AB of the I.T. Act, 1961 is rejected and its registration also cancelled.

4. Now before us, the Id.counsel for the assessee only requested one more opportunity and he undertakes to file the complete details and contended that the trust was solely existing for pursuing

charitable activities and he is ready to prove the same before CIT(E). Hence, in the interest of justice, we set aside the order of CIT(E) and remand the matter back to the file of CIT(E) for fresh adjudication.

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

Order pronounced in the open court at the time of hearing on 24th June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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