

आयकर अपीलीय 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.: 886/CHNY/2024

M/s.Hillside Educational Trust,
9/105C Alankar Garden,
Vellakinarpirivu,
Mettupalayam Road,
GN Mills Post,
Coimbatore - 641 029.

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

PAN: AABTH 8707L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri Girish Kumar, Advocate
: 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 14.12.2023, rejecting Form No.10AB u/s.12A(1)(ac)(ii) of the Income Tax Act, 1961 (hereinafter the 'Act') seeking registration u/s.12AB of the Act.

2. At the time of hearing, it is noticed that this appeal is barred by limitation by 50 days. The facts of the case are that the order by CIT(E) is dated 14.12.2023. As per Form 36, the assessee has received this order on 14.12.2023 and appeal should have been filed on or before 12.02.2024 but appeal was actually filed on 02.04.2024 and thereby, there is a delay of 50 days. The assessee filed condonation petition for condoning the delay of 50 days stating the following reason:-

“In this regard, it is submitted that the Appellant Trust filed Form 10AB on 05.06.2023 seeking registration u/s 12A(1) (ac) (iii) and the Chartered Accountant was responding to the notices issued in the proceedings. However, the final notice issued seeking reply within 29.12.2023 as well as the order was not noticed by the office of the Chartered Accountant immediately resulting in delayed communication to the Managing Trustee of the Appellant.

The Managing Trustee of the Appellant Trust on receipt of the information regarding the passing of the order with the help of the Chartered Accountant approached the Counsel on Record seeking advice on further course of action to file registration under the new regime of registration and on the advice of the Counsel on Record, the present appeal was filed seeking remand of the order of the CIT(E).

In such circumstances, the Appellant submits that the transition to electronic regime coupled with provisions pertaining to the new regime of registration (transition from old regime) would constitute the reasonable cause for the delay in filing the captioned appeal and pleads for condoning the small delay of 50 days in filing the appeal under consideration in the interest of justice for adjudicating the issues on merits.”

When this was confronted to Id. Senior DR, he opposed condonation of delay. After hearing rival contentions and going through the

condonation petition, we find the reason stated by assessee as reasonable and sufficient and hence, we condone the delay and admit the appeal.

3. At the outset, the Id.counsel for the assessee stated that the only issue in this appeal of assessee is as regards to the order of CIT(E) rejecting the assessee application filed in Form No.10AB seeking recognition/registration for the assessee trust u/s.12A(1)(ac)(ii) of the Act for non-compliance.

4. The brief facts are that the assessee filed online application dated 05.06.2023 in Form No.10AB u/s.12A(1)(ac) (ii) of the Act, seeking registration u/s.12AB of the Act. The CIT(E) while processing the application u/s.12AB of the Act required the assessee to file certain documents as provided in Rule 17A of the Income Tax Rules, 1962, for verification. Accordingly, the CIT(E) vide office letter dated 21.11.2023 through e-filing/ITBA portal requested the assessee to furnish the relevant documents/details either by uploading online in e-filing portal or by post, on or before 29.11.2023. Since, there was no response from the assessee, the CIT(E) rejected the assessee's application in Form No.10AB for 'non-compliance' by observing as under:-

5. *The above notice was duly served on the applicant by e-mode through ITBA/e-filing portal as per law. However, the applicant neither uploaded the requisite details in the e-filing portal nor sent them by Post.*

6. *It is clear from the above that the applicant failed to comply with the notice sent, in spite of reasonable opportunity afforded. In the light of the above facts, it appears that the applicant trust/society institution is not interested in getting itself registered u/s 12AB of the I.T. Act. For want of the necessary particulars, the above referred application in Form No. 10AB filed by the applicant on 05.06.2023 could not be processed as per the provisions of section 12AB of the I.T. Act.*

7. *As the applicant has failed to fulfil the statutory requirements inspite of affording reasonable opportunity, its application in Form No. 10AB dated 05.06.2023 seeking registration u/s.12AB of the I.T. Act, 1961 is rejected for non-compliance. However, no adverse inference is drawn against existing and valid registration, if any, as per law u/s, 12AB.*

5. We have gone through the order of CIT(E) and noted that the CIT(Exemption) has rejected the application filed by assessee for non-compliance. We are of the view that proper opportunity of being heard was not provided to the assessee and hence, in the interest of justice, we set aside the order of CIT(E) and remit the issue back to the file of the CIT(E), who will examine all the details and assessee will comply with all the requirements. In term of the above, the order of CIT(E) is set aside and matter restored back to

his file for fresh adjudication. The appeal of the assessee is allowed for statistical purposes.

6. 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

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.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT