

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.: 495/CHNY/2024

**M/s. Jamnagarwala Charitable
Trust,**
8th Floor, No.86,
Polyhose Towers,
Anna Salai, Guindy,
Chennai – 600 032.

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

PAN: AADTJ 4573A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Shyamkedia, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 25.06.2024

घोषणा की तारीख/Date of Pronouncement

: 25.06.2024

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 12.01.2024, rejecting Form No.10AB u/s.12A(1)(ac)(ii) of the Income Tax Act, 1961 (hereinafter the 'Act') filed for seeking registration/approval/recognition u/s.12AB of the Act.

2. At the outset, the Id.AR for the assessee stated that the CIT(E) has rejected the assessee's application in Form No.10AB filed for seeking registration/approval/recognition u/s.12A(1)(ac)(ii) of the Act due to the reason that in assessee's application a mistake has occurred while uploading Form No.10AB in selecting the code 12A(1)(c)(iii), code 12A(1)(c)(ii) was selected. Further, the CIT(E) has not provided opportunity to the assessee to rectify the mistake and straightaway rejected the application.

3. Brief facts are that the assessee filed online application on 07.07.2023 in Form No.10AB u/s.12A(1)(ac)(ii) of the Act. The CIT(E) noted that the assessee's case is for fresh approval and assessee ought to have filed its application u/s.12A(1)(ac)(iii) of the Act but assessee has erroneously filed its application in Form No.10AB u/s.12A(1)(ac)(ii) of the Act which covers the cases of trusts which are already approved and seeking re-approval. The CIT(E) rejected the assessee's application by observing as under:-

“4.1. In the light of the fact that the applicant had been granted only provisional registration for a period of 3 years (from AY 2023-24 to AY 2025-26), as stated above, the present application in Form 10AB filed u/s.12A(1)(ac)(ii) seeking renewal of registration is prima-facie non-maintainable.

4.2. On careful consideration of the above facts and circumstances, the above application filed on 07.07.2023 in Form No. 10AB u/s 12A(1)(ac)(ii) is treated s 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."

4. Since the CIT(E) has not granted proper opportunity to rectify the mistake, we set aside the order of CIT(E) and remand the matter back to the file of CIT(E) for fresh adjudication on merits. In term of the above, the CIT(E) is directed to pass a speaking order on merits without going into the technicalities. Accordingly, the appeal of assessee is allowed for statistical purposes.

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 25th 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 25th June, 2024

RSR

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.