

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**BEFORE MS PADMAVATHY S, AM &
SHRI RAJ KUMAR CHAUHAN, JM**

**I.T.A. No. 1090/Mum/2024
(Assessment Year: 2024-25)**

Sanjay Gandhi Nagar Rahivasi Sanghatna, Plot No. 267, H-1/1, Opp. Gokuldharm, Gen. Arun Kumar Vaidya Road, Malad (East), Maharashtra-400097 PAN : AAAAS5255J	Vs.	CIT(Exemption)/ITO Ward- 2(3), Cumballa Hill, MTNL, Mumbai.
Appellant)	:	Respondent)

Appellant/Assessee by : Shri Arvind Bansraj Singh, CA
Revenue/Respondent by : Shri Dr. Kishor Dhule, CIT-DR

Date of Hearing : 13.06.2024
Date of Pronouncement : 21.06.2024

ORDER

Per Padmavathy S, AM:

This appeal is against the order of the Commissioner of Income Tax (Exemptions), Mumbai [for short 'CIT(E)] dated 19.03.2023 for the AY 2024-25 denying the registration under section 12A of the Income Tax Act, 1961 (the Act).

2. The assessee is a society established on 07.05.1981. The main objects for which the assessee was established are to carry of social and cultural and charitable

activities for general public mainly to the slum dwellers residing at Sanjay Gandhi Slum. The assessee undertakes several projects in the field of social and cultural activities in this regard. The assessee was granted provisional registration under sub-cause (iii) of clause (ac) of sub-section (1) of section 12A on 07.04.2022 for period from AY 2022-23 to AY 2024-25. The assessee applied for regularization of the earlier provisional approval submitting all the relevant details. However, the application was rejected by stating that

“Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. In the absence of necessary compliance by the Applicant. I am unable to arrive at a satisfaction on these parameters. As such, in view of the statutory limitation to decide on the application on or before 31.03.2023, I am left with no other option but to reject the application seeking registration under section 12AB the Act.”

3. The assessee reapplied for regular registration in Form 10AB on 12.09.2023 along with all necessary documents. Once again the application was rejected with the following observations:

“On perusal of the Form 10AB filed by the assessee it was observed that the assessee has applied under section 12A(1)(ac)(iv) i.e. where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11 and not for regularisation of provisional registration. Hence this Application is hereby rejected.”

However, this rejection will not adversely impact the provisional registration under section 12AB issued by the CPC. For statistical purposes, this application is non maintainable and stands rejected”.

4. The Id. AR submitted that while filing the fresh Form 10AB for regular registration the assessee should have submitted the application under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act. However, at the time of filing of the said application in the last month in which it was due the portal of CPC was open only for sub-clause (iv) and was not accepting sub-clause (iii). The Id. AR further submitted that since the due date for regularization the provisional registration was expiring the assessee had no choice but to submit the application under sub-clause (iv). The Id. AR also submitted that the assessee was not given any opportunity to correct the application and the CIT(E) directly rejected the application on the ground that it is made under wrong sub-clause.

5. We have heard the Id. DR. From the perusal of the order rejecting the application filed by the assessee to regularize the registration under section 12A, we notice that the application is rejected for a reason that it is filed under the wrong sub-clause of section 12A(1)(ac) i.e. the provisional registration was granted under sub-clause (iii) whereas in the Form 10AB the assessee has applied under sub-clause (iv). We also notice that the CIT(E) while rejecting the application has held that the rejection will not adversely impact the provisional registration under section 12AB and that the assessee is at liberty to reapply in Form 10AB along with all necessary documents / enclosures. Considering the submission that the portal did not allow the assessee to submit the application under the correct clause, in the interest of natural justice, we are inclined to give one more opportunity to the assessee to reapply for regularizing the registration under section 12A under the correct sub-clause and accordingly, remit the issue back to CIT(E). The CIT(E) is directed to consider the Form 10AB as may be resubmitted by the assessee under the correct clause and decide regularizing the registration in accordance with law after giving a reasonable opportunity of being

heard to the assessee. The assessee is directed to resubmit Form 10AB under correct sub-clause of section 12A(1)(ac) and cooperate with the proceedings. It is ordered accordingly.

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

Order pronounced in the open court on 21-06-2024.

Sd/-
(RAJ KUMAR CHAUHAN)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai