

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. 277/JPR/2024

Aanya Foundation 20-D Extension Vallabh Nagar, near Sofia School, PIP Kota, S.O. Kwshopura, Kota.	बनाम Vs.	CIT-Exemption , Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAITA7372F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Vijay Goyal (C.A.)
राजस्व की ओरसे / Revenue by: Shri Arvind Kumar CIT)

सुनवाई की तारीख / Date of Hearing : 24/06/2024
उदघोषणा की तारीख / Date of Pronouncement : 01 /07/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

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 06.01.2024.

2. The assessee has assailed the present appeal on the following grounds:-

"1. On the facts and in the circumstances of the case, the Id. CIT Exemption, Jaipur erred in rejecting the application filed by the appellant in Form 12AB for registration of trust u/s 12AB of Income Tax Act, without providing the reasonable opportunity to the assessee to submit its submission.

2. On the facts and in the circumstances of the case, the CIT Exemption erred in holding that the assessee has filed incomplete Form No. 10AB and holding non genuine activities and further erred in rejecting the application merely on the ground non compliance made by the appellant of the notices issued by the department without providing the sufficient opportunity more so when no notice was issued by physical form.

3. The appellant prays for leave to add, to amend, to delete, or modify the all or any grounds of appeal on or before the hearing of appeal.”

3. Brief facts of the case are that the assessee filed an online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 by an application dated 16.07.2023. A letter/notice No. ITBA/EXM/F/EXM43/2023-24/1057693348(1) dated 04.11.2023 was issued at the e- mail'd provided in the application requiring the assessee to submit certain documents/explanations by 15.11.2023. The said notice remained non-compliant. A reminder letter was issued on 28.11.2023 and 11.12.2023 and same was also remain unattended. Thus, the assessee has not furnished any details/documents. Since it was a limitation matter, the application was decided based on material filed by the assessee along with its application in Form no. 10AB. The Id. CIT(E), in the absence of details noted that the form submitted in 10AB was incomplete, non-

genuineness of activities and non-compliance on the part of the assessee.

4. Aggrieved from that finding so recorded in the order of the Id. CIT(E), the assessee has preferred the present appeal on the grounds as stated herein above in para 2. The Id. AR of the assessee submitted that the assessee is a public charitable trust. The notices were served on which email id is served is not clear. The managing trustee's mail id is given in the application form and she has not received any such notices. Even there is not column where the trust mail id is called for. It seems that the notices were served on the mail id of the settler of the trust, which remained non-compliant because the settler has no role to play once the trust is established. The trust has not received any physical notice also. Thus, the principles of nature justice is violated and considering the fact that the activities of the assessee trust is charitable in nature, principles of nature justice based on fact demands that once chance be given to the assessee. The Id. AR thus relied on the decision of Jaipur benches in the case of 613/JP/2023 prayed to restore the matter back to the file of the Id. CIT(E) in the interest of justice as the order under appeal is passed ex-parte.

5. Per contra, the Id. DR relied on the orders of the Id. CIT(E) and vehemently argued that the assessee remained non-compliant and has not established the genuineness of the activity the registration has rightly been rejected.

6. We have heard the rival contentions and perused material available on record. The Bench noted from the order of the Id. CIT(E) that he has rejected the application of the assessee pertaining to registration of the society u/s. 12AB of the Act on the ground that form no 10AB is incomplete and non-genuineness of activities coupled with the non-compliance of the notices so issued. It is also pertinent to mention that during the course of hearing, the Id. AR of the assessee prayed that he was deprived of availing adequate opportunity of being heard by the Id. CIT(E). He also submitted that in the application for registration all the details are filed. The assessee was not given proper opportunity though the managing trustee as she has not received any notice and therefore, response could not be submitted. The Bench do not intend to go into the merit of the case or that of the dispute, but it is imperative that the assessee must be provided adequate opportunity of being heard

by the Id. CIT(E). In this view of the matter, the Bench feels that the assessee should be given one more chance to contest the case before the Id. CIT(E). Thus, the assessee is directed to produce all the relevant papers concerning the application so filed before the Id. CIT(E) to settle the dispute raised hereinabove and thus we set aside the issue to the file of the Id. CIT(E).

7. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. 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 01/07/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिकसदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 01/07/2024

*Santosh

आदेश की प्रतिलिपि अग्रेशित / Copy of the order forwarded to:

1. The Appellant- Aanya Foundation, Kota.
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur.
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त (अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 277/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar