

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE “B” BENCH, BANGALORE**

**Before Shri Laxmi Prasad Sahu, Accountant Member
and
Shri Keshav Dubey, Judicial Member**

ITA No. 911/Bang/2024		
Shri Guruvana Trust No. 23/57, 41st Cross, East End C Main Road, 9th Block Jayanagar, Bangalore 560027 PAN – ABDTS3858C	vs.	CIT (Exemption) Unity Building Annexe Mission Road Bangalore 560027
(Appellant)		(Respondent)
Assessee by:	Shri Harsha K.M., CA	
Revenue by:	Shri Satish M., CIT-DR	
Date of hearing:	25.06.2024	
Date of pronouncement:	03.07.2024	

ORDER

Per: Keshav Dubey, J.M.

This is an appeal filed by the assessee against the Order of the CIT (Exemptions), Bangalore dated 02.04.2024 vide DIN & Notice No. ITBA/EXM/F/EXM45/2004-05/1063960156(1) rejecting the application of the assessee seeking registration under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of the Income Tax Act, 1961 (the Act).

2. The assessee has challenged the said order by taking the following grounds of appeal: -

- “1) *The Ld. Commissioner of Income Tax (E) erred in law and on facts in rejecting the application made by the Appellant Trust for renewal of registration u/s.12 AB of Income Tax Act without going into the merits of the case.*
- 2) *The Ld. Commissioner of Income Tax (E) erred in law and on facts in cancelling the provisional registration granted on*

24.03.2022 without following the due process of law stating that the application was filed beyond the permitted date.

- 3) The Ld. Commissioner of Income Tax (E) erred in law and on facts that provisional registration granted on 24.03.2022 without even going through the merits and genuineness of the activities of the Trust and in absence of any violation of conditions prescribed under law, rejecting granting of Registration is not justified.*
- 4) The Appellant submits that as per amended provisions of section 12 AB, though the application for renewal was required to be filed 6 months prior to expiry of the period of the provisional approval or within 6 months of commencement of its activity, whichever is earlier, the Appellant could not submit the application because due date for Income tax returns filing was required to be followed, hence the advisors could not file the renewal application earlier to 6 months. However, the Appellant submits that filing of Form 10AB was only procedural in the matter and what was necessary to be seen is the genuineness of activities of the Trust.*
- 5) For the above and any other grounds that may be advanced at the time of hearing, the appellant prays that the appeal be allowed.”*

3. The brief facts of the case are that the assessee has filed an application in Form 10AB for grant of registration under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act on 31/10/2023 vide e-filing Acknowledgement No.487844870311023. The provisional registration was already granted by the Ld. PCIT/CIT in Form 10AC under sub clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act on 24.03.2022 effective from AY 2022-23 to AY 2024-25. It was observed by the Id. CIT (Exemptions) in the Order for rejection of registration that the assessee has obtained registration u/s. 12AB in Form 10AC dated 24.03.2022 (provisional for AYs 2023-24 & 2024-25) as the present application is filed only on 31.10.2023, which is beyond the time limit specified u/s. 12A(1)(ac)(iii) of the Act and hence the application is filed belatedly. Further the Id. CIT (Exemptions) has reproduced s. 12A(i)(ac)(iii) as under: -

“where the trust or institution has been provisionally registered u/s. 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier”.

In view of the above the Id. CIT(E) accordingly rejected the application filed in Form 10AB dated 31.10.2023 and cancelled the registration of the assessee.

4. Before us the learned A.R. of the assessee drew our attention to the CBDT circular No. 7/24 dated 25.04.2024 wherein the due date for filing of Form 10B is extended up to 30.06.2024. The relevant para of the circular relating to the assessee is reproduced as under: -

“4.1 Further, in cases where any trust, institution or fund has already made an application In Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date or that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 3(ii) i.e. 30.06.2024.”

In view of the above the learned A.R. of the assessee requested for grant of registration as the application was within the extended due date.

5. The learned D.R., on the other hand, submitted that as per the CBDT circular the assessee has to file fresh application as the order in this case has already been passed on or before the issuance of the said circular.

6. We have heard the rival contentions and perused the material on record. From the order of the Id. CIT (Exemptions) it appears that the application of the assessee was rejected solely on the ground that Form 10AB was filed beyond the prescribed time limit as provided by the Finance Act, 2020. The CBDT circular No. 7/2024 has addressed this issue by which the time for filing Form 10AB is extended up to 30.06.2024. Since in this case the order has already been passed by the Id. CIT (Exemptions) rejecting the application by the assessee, normally we would have set aside the order of the Id. CIT

(Exemptions) and direct the assessee to file a fresh application in view of the circular issued by the CBDT (supra). This would not only lead to multiple filings before the Id. CIT(A) but also it is likely that when the order will be pronounced by this Bench by that time, the last date of submission i.e. 30.06.2024 may run out. This being so, in view of the circular issued by the CBDT and also being live to the CBDT circular in para 4.1, we set aside the order of the Id. CIT (Exemptions) and restore the issues to the file of CIT(E) to readjudicate the issue holding the application of the assessee as being within the time in view of the above mentioned circular.

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

Order pronounced in the open Court on 3rd July, 2024.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bengaluru, Dated: 3rd July, 2024
n.p.

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bangalore