

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.1516/MUM/2024
Assessment Year: 2024-25**

M/s. Antodaya Foundation 5B8 Sangeeta Apartments, Juhu Road, Opp SNTD College, Maharashtra - 400049 PAN: AAHTA4678B	Vs.	CIT(Exemptions), Ward No.1(1), Room No.601, 6 th Floor, Cumballa Hill MTNL TE Building, Pedder Road, Dr Gopalrao Deshmukh Marg, Mumbai Maharashtra- 400026
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Ajay Chandra, D.R.

Date of Hearing : 24 . 06 . 2024
Date of Pronouncement : 28 . 06 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 19.03.2023, impugned herein, passed by the Ld. Commissioner of Income Tax (Exemptions) (in short Ld. Commissioner) under Rule 2C or 11AA or 17A of the Income Tax Rules, 1962 (in short 'the Rules') for the A.Y. 2024-25.

2. In the instant case, the Assessee before the Ld. Commissioner has sought registration under section 12AB of the Act, by filing an application, which was taken into consideration on 18.01.2023 whereby the assessee was requested to furnish the complete set of documents. In response to which, the Assessee filed its submissions dated 31.01.2023. Thereafter, another show cause notice dated 10.03.2023 was issued to the Assessee in order to ascertain the genuineness of the activities carried out by the assessee, however, the assessee made no compliance, therefore the Assessing Officer (AO) by considering the statutory limitation period to decide the application on or before 31.03.2023, ultimately rejected the application on 19.03.2023 by holding that he has left with no other option but to reject the application seeking registration under section 12AB of the Act.

3. We have given thoughtful considerations to the peculiar facts and circumstances of the case and observed that the Ld. Commissioner on non-filing of any reply/documents to the satisfaction of the Ld. Commissioner and considering the limitation period as prescribed for deciding the application under section 12AB of the Act, rejected the application for grant of registration under section 12AB of the Act in limine. It is nowhere appears from the impugned order that before rejecting the application for registration the Ld. Commissioner has ever expressed his opinion qua rejection of the registration application and/or given any opportunity to the Assessee to substantiate its application. Considering the peculiar facts and circumstances in its totality and for the just decision of the case and for the ends of substantial justice, we are inclined to remand this case to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the Assessee to substantiate its case. Hence, the case is remanded accordingly.

4. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 28.06.2024.

**Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.