

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA.No.572/PUN./2024
[U/sec.12AB of the Income Tax Act, 1961]

Kai Mahdevrao Baburao Autade Pratishtan, Near Laxmi Saw Mill, Khandoba Lane, SOLAPUR – 413 305 Maharashtra. PAN AADTK7225L	vs.	The Commissioner of Income Tax (Exemptions), Room No.322, 3 rd Floor, Income Tax Office, PMT Bldg., Shankar Seth Road, PUNE-411037.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S. Shingte
For Revenue :	Shri Keyur Patel, CIT-DR

Date of Hearing :	04.07.2024
Date of Pronouncement :	09.07.2024

ORDER

PER RAMA KANTA PANDA, V.P. :

This appeal filed by the assessee is directed against the order dated 30.01.2024 of the learned Commissioner of Income Tax-(Exemption), Pune in rejecting the application of the assessee filed u/sec.12AB of the of the Income Tax Act, 1961 (in short "the Act").

2. The grounds raised by the assessee are as under :

1. *"On the facts and the circumstances of the case and in law, Learned CIT (Exemption) erred in rejecting an application of registration made u/s.12AB of IT Act, it is appellants contention that the application may kindly be allowed after considering the Trust Deed and such other documents of the trust.*

Your appellant craves for to add, alter, amend, modify, delete all above or any grounds of appeal before or during the course of hearing in the interest of natural justice.”

3. Facts of the case, in brief, are that the assessee filed an application in Form-10AB for grant of registration u/sec.12AB of the Act. The learned CIT(E) with a view to verify the genuineness of activities of the assessee and compliance to the requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objections, issued a notice through ITBA portal asking the assessee to upload the information / clarification such as certified copy of order of regular registration u/sec.12AB in Form No.10AC, date of such approval, date of expiry of such approval, proof of identity of main trustees/directors, year-wise list of donations received, note on activities carried-out along with supporting credible evidence, details of any other law applicable for achievement of objectives and proof of compliance of said law, details of business undertakings etc. The assessee was specifically informed that in the event of failure to comply by the due date, the application shall be liable to be rejected and the registration/approval are also liable to be cancelled. Since there was no response from the side of the assessee, the learned CIT(E) treated the application filed by the assessee as

not maintainable and rejected the same by observing as under:

“4.1. The assessee was specifically requested vide the initial notice to furnish the copy of order of regular registration under section 12AB of the Income Tax Act, 1961. Such copy is actually required to be furnished along with the application itself under the provisions of Rule 17A(2)(e) of the Income Tax Rules, 1962. However, the assessee has neither submitted the same along with the application nor in response to the notice issued in this regard. Further, in reply dt. 16/01/2024, the assessee has stated that the trust was not previously registered. The copy of order submitted by the assessee is a copy of provisional registration under section 12AB read with clause (vi) of section 12A(1)(ac) of the Income Tax Act, 1961 and not a copy of regular registration under section 12AB read with clause (i) or clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961.

4.2. The non-submission of copy of order of regular registration under section 12AB of the Income Tax Act, 1961 establishes the fact that the prerequisite for application under clause (ii) of Section 12A(1)(ac) of the Income Tax Act, 1961 is not fulfilled in this case. Therefore, prima-facie it appears that the application is not maintainable.

5. In view of the above, the application filed by the assessee is treated as non-maintainable and hence, 'rejected' for statistical purposes without going into the merits of the case and no adverse inference is drawn against the assessee.”

4. Aggrieved by the order of the learned CIT(E), the assessee is in appeal before the Tribunal.

4.1 Learned counsel for the assessee filed the CBDT's circular no.7/2004 dated 25.04.2024 and submitted that in view of the same, the matter may be restored to the file of CIT(E) for fresh adjudication.

5. The Ld. DR did not object for the same.

6. After hearing both the sides, we find that the learned CIT(E) rejected the application filed by the assessee on the ground that assessee failed to file the requisite details as called for by him vide order of the CIT(E) dated 30.01.2024. We find from careful perusal of CBDT's circular no.7/2024 dated 25.04.2024 that it had extended the due date for filing of Form-10A/10B as under :

*"F. No. 173/25/2024-ITA-1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes*

New Delhi, Dated 1st April. 2024

Sub: Extension of due date for Filing of Form No. 10A/10AB under the Income-tax Act, 1961- req.

On consideration of difficulties reported by the taxpayers and other stakeholders in the electronic filing of Form No. 1QA/10AD, the Central Board of Direct Taxes (the Board) in exercise of its powers under section 119 of the Income-tax Act, 1961 (the Act) extended the due date for filing Form No.10A to 31.08.2021 by Circular No. 12/2021 dated 25.06.2021, to 31.03.2022 by Circular No. 16/2021 dated 29.08.2021 to 25.11.2022 by Circular No. 22/2022 dated 01.11.2022 and further to 30.09.2023 by Circular No.6/2023 dated 24.05.2023. and extended the due date for tiling Form No.10AB to 30.09.2022 by Circular No.8/2022 dated 31.03.2022 and further to 30.09.2023 by Circular No.6/2023 dated 24.05.2023.

2. Representations have been received in the Board with a request to condone the delay in filing Form No.10A/10B, as the same could not be filed in such cases within the last extended date, i.e. 30.09.2023.

3. On consideration of the matter, with a view to avoid and mitigate genuine hardship in such cases, the Board, in exercise of the powers conferred under section 119 of the Act hereby extends the due date of making an application/intimation electronically in –

(i) Form No.10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G or in case of an intimation under fifth proviso of sub-section (1) of section 35 of the Act, till 30.06.2024;

- (ii) *Form No.10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, till 30.06.2024.*

4. *It may be also noted that extension of due date as mentioned in paragraph 3 (ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be. Hence, in cases where any trust, institution or fund has already made an application in Form No.10AB under the said provisions on or before the issuance of this Circular, and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No.10AB may be treated as a valid application.*

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.*

5. *It is also clarified that if any existing trust, institution or fund who had failed to file Form No.10A for AY 2022-23 within the due date as extended by the CBDT circular no. 6/2023 dated 24.05.2023 and subsequently, applied for provisional registration as a new trust, institution or fund and has received Form No.10AC, it can avail the option to surrender the said Form No.10AC and apply for registration for AY 2022-23 as an existing trust, institution or fund in Form No.10A within the extended time provided in paragraph 3(i) i.e. 30.06.2024.*

6. *Hindi version to follow*

*Sd/- Vikas Singh
Director (ITA-1)*

6.1. Considering the totality of the facts of the case and considering the CBDT's circular dated 25.05.2024 which has been issued after the order of the CIT(E), we deem it proper to restore the issue to the file of CIT(E) with a direction to grant an opportunity to the assessee to substantiate its case by

filing all the requisite details and decide the issue as per fact and law in line with the CBDT's circular no.7/2024 dated 25.04.2024 (supra). Needless to say, the ld. CIT(E) shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. We hold & direct accordingly. Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 09.07.2024.

Sd/-
[MS. ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Pune, Dated 9th July, 2024

VBP/-

Copy to

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, A-Bench, Pune
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.