

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM& SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 401 & 402/JPR/2024

Paradise Sarv Kalyan Sansthan 106/31, Agarwal Farm, Mansarover, Jaipur.	बनाम Vs.	The CIT-Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AABTP0551E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Vikash Rajvanshi (C.A.)
राजस्व की ओरसे / Revenue by: Shri Ajey Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 10/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 10/07/2024

आदेश / ORDER

PER: NARINDER KUMAR, Judicial Member.

These two appeals have been filed by the assessee, named above. These arise out of separate orders dated 03.02.2024 passed by Learned Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to as CIT(E)].

Vide an order, application filed by the trust, in Form No. 10AB seeking registration under sub-clause (ii) of sub-section (1) of Section 12A

of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) came to be rejected.

Vide separate order, another application in Form No. 10AB, seeking approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act, also came to be rejected.

Since common questions are involved, both the appeals have been taken up together and are being disposed vide common judgment.

2. Appellant-applicant claims itself to be a charitable trust working for public welfare activities like promotion and advancement of general public welfare, relief to the poor; and medical reliefs to the needy.

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3. Appellant is feeling aggrieved by order dated 03.02.2024 whereby its application presented on 23.09.2023 in Form No. 10AB seeking registration under sub-clause (ii) of sub-section (1) of Section 12A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), has been rejected having become infructuous.

4. The impugned order came to be passed by Learned CIT(E), while observing that the applicant was already not regularly registered under clause (i) or (iii) of section 12AB of the Act.

ITA No. 402/JPR/2024

5. By way of this appeal, the appellant-trust has challenged order dated 03.02.2024 passed by the Learned CIT(E), whereby its application filed on 23.09.2023 in Form No. 10AB seeking approval under clause (ii) of first proviso to sub-section (5) of section 80G of the Act, has been rejected, while observing that the same had also become infructuous.

6. The reasons for rejecting the application, as per impugned order, is that the assessee failed to furnish details/information required vide notice dated 21.12.2023 and also because the applicant had already not got registered under clause (i) or (iii) of first proviso to section 80G(5) of the Act.

7. Hence, this appeal.

8. Arguments heard. Files perused.

9. In both appeals, the only submission put forth on behalf of the appellant trust is that no reasonable opportunity was granted by Learned CIT(E) to the applicant to furnish requisite details/information. The Id. AR for the assessee has, therefore, urged that the impugned orders be set aside and the matters may be remanded to the Learned CIT(E) for decision afresh, after providing reasonable opportunity to the appellant of being heard.

10. As is available from the impugned orders passed by Learned CIT(E), in particular, from the tables available in the very beginning of the orders, which are in Form No. 10AD, two opportunities were afforded to the applicant before rejection of the each application. As per contents of column 10 of this table, one opportunity was afforded vide notice dated 21.12.2023 issued for 29.12.2023. The other opportunity was granted for 04.01.2024.

However, in para 2 of each impugned order, there is mention about issuance of only one notice dated 21.12.2023, to the applicant and that too for 29.12.2023. In said paragraph of each impugned order, there is no mention regarding issuance of any other notice.

Had any second notice been issued on or for 04.01.2024, the date mentioned in column no. 10 of the above referred to table(s), it must have found mention in the text of the orders. But, as already mentioned, in para 2 of the impugned orders, there is no mention about issuance of any second notice.

11. In the given situation, we find that reasonable opportunity of being heard was not granted to the applicant-appellant to justify its claim as put forth in the respective application i.e. u/s 12A of the Act and sub-section (5) of Section 80G of the Act. Had reasonable opportunity been afforded, the

applicant might have complied with notices. On behalf of the appellant, it has been submitted that the President of the applicant trust was not keeping good health, and as such, notice dated 21.12.2023 could not be complied with.

Although no medical certificate has been filed in support of this submission, in view of our observation that reasonable opportunity should have been granted to the applicant, before disposing of the applications, non production of medical certificate does not come to the aid of department.

We are of the considered view that this is a matter where the basic principles of natural justice have not been complied with.

Conclusion

12. For the foregoing discussion, we find that both the impugned orders i.e. one challenged by way of ITA No. 401/JPR/2024 and the other by way of ITA No. 402/JPR/2024 deserve to be set aside, and matter(s) need remanded to Learned CIT(E) for decision afresh, after providing reasonable opportunity to the applicant-appellant, of being heard.

Result

13. Consequently, both these appeals are allowed. While setting aside the impugned orders, the matters are remanded to Learned CIT(E), Jaipur

for decision of the respective application afresh, after providing reasonable opportunity to the appellant-applicant, of being heard.

Order pronounced in the open court on 10/07/2024.

Sd/-
(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्रकुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 10/07/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Paradise Sarv Kalyan Sansthan, Jaipur.
2. प्रत्यर्थी / The Respondent- CIT(Exemption), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 401 & 402/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar