

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES," B-Bench" 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. 749JPR/2024

Seva Bharti Samiti Adarsh Vidha Mandir Campus Behind Poonam Takiz, Lalsot Road, Dausa.	बनाम Vs.	The CIT Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABDAS7225A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Gopal Agarwal, Secretary
राजस्व की ओरसे / Revenue by: Shri Ajay Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 16/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 18/07/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

In order to seek registration u/s 12AB of the Income Tax Act, 1961 (hereinafter referred to as the "Act"), an application is required to be submitted to Learned CIT(E), in the prescribed format i.e. Form No. 10AB.

The appellant-herein also submitted such application under the said provision, on 25.09.2023.

Vide impugned order, dated 11.03.2024, Learned CIT(E) rejected the application and also held that consequently, provisional registration also

stood lapsed and cancelled. That is how, the appellant is before this Appellant Tribunal.

2. Learned CIT(E) rejected the application u/s 12AB of the Act on the following three grounds:-

- *Incomplete Form 10AB.*
- *Rajasthan Public Trust Act, 1959.*
- *Genuineness of Activities.*

3. The impugned order having been passed on 11.03.2024, the applicant was required to file an appeal before this Appellate Tribunal within the prescribed period of limitation. The appeal having been presented on 23.05.2024, the Registry reported that the appeal was presented 13 days after the prescribed of limitation.

4. The appellant submitted with the appeal itself an application seeking condonation of delay. Firstly, said application came to be argued.

5. Ld. AR for the applicant-appellant has submitted that for communication of correspondence, e-mail address submitted to the department was: ashoknatani1234@gmail.com, but, neither any notice nor the impugned order rejecting the application u/s 12AB of the Act, was received on the said e-mail address, what to say of communication of hard copy thereof at the registered address of the applicant-Samiti. In this

regard, Ld. AR for the appellant has referred to the averments made in the application and attested affidavit of Shri Gopal Lal Agarwal, Secretary of the appellant-Samiti.

6. From the impugned order, it transpires that notices dated 28.12.2023, 23.01.2024 and 02.02.2024 are stated to have been issued by office of the Learned CIT(E) to the assessee at the e-mail address presented in the application requiring the appellant to submit certain documents/explanations.

Learned CIT(E) observed in the impugned order that the applicant did not comply with any of the three notices referred to above.

7. A perusal of copy of the application u/s 10AB of the Act submitted for registration would reveal that in para 9(a) details of 15 members of the applicant-Samiti were given.

Last column of said details pertains to e-mail addresses of the said 15 members. When Learned CIT(E) observed in the impugned order about communication of the notices at the e-mail address provided in the application u/s 12AB of the Act, admittedly from the records, it cannot be said as to at which of the 15 e-mail addresses, the three notices were sent by the office of Learned CIT(E).

It is true that at serial No. 6 of the details of the members of the Samiti, there are particulars of Ashok Natani, a member of the Samiti, with his e-mail address ashoknatani1234@gmail.com. As per affidavit filed with the application seeking condonation of delay, said e-mail address was furnished to the department, and to the office of CIT(E), for communication, but, neither any notice nor the impugned order was received at the said e-mail address.

The department has not placed on record any material to suggest that notices and the impugned order were served/communicated by the office of the Learned CIT(E) at the said e-mail address i.e. of Ashok Natani, the member. In absence thereof, it cannot be said that this is a case of due service of the notices & the impugned order, at the given e-mail address.

As alleged in the application seeking condonation of delay on 30.04.2024, the factum of rejection of the application u/s 12AB of the Act came to notice from the site of the department, whereupon the concerned CA was contacted for the purpose of filing of appeal, same was drafted and presented.

8. In view of the above discussion, we find merit in the contention raised by the applicant that there was sufficient cause for non filing of this appeal

within prescribed period of limitation. Consequently, this application seeking condonation of delay is allowed.

9. On merits, it has been argued on behalf of the appellant that when none of the three notices can be said to have been served upon the applicant at the given e-mail address, impugned order deserves to be set aside.

In view of the above discussion, on the basis of material available on record, we find merit in the contention raised on behalf of the appellant-samiti that none of the three notices stated to have been issued by the office of the Learned CIT(E) can be said to have been served upon the applicant at the given e-mail address, particularly, when from the side of the department there is nothing to suggest that notices were served at the given email address.

When no reasonable opportunity was granted to the applicant of being heard before rejection of the application, we find that this is a case where one of the principles of natural justice stands violated. The applicant-Samiti deserves reasonable opportunity, of being heard.

Result

10. For the foregoing discussion and the findings recorded above, this appeal is disposed off, and while setting aside the impugned order, the

matter is hereby remanded to Learned CIT(E) with the direction to dispose of the application u/s 12AB of the Act, afresh, in accordance with law, after providing reasonable opportunity to the appellant-applicant, of being heard.

11. While parting with the judgment, we may observe that Form No.10AB needs modification to have a column, like Form No.35, requiring the applicant to furnish without fail, the address for communication of notices and orders in connection with such application, so that the department has no occasion to doubt the address for communication of such notices and order, and there is no multiplicity of, or unnecessary, litigation. In this regard, department may take appropriate steps, if so advised.

Order pronounced in the open court on 18/07/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 18/07/2024

*Santosh

आदेश की प्रतिलिपिअग्रेहित / Copy of the order forwarded to:

1. The Appellant- Seva Bharti Samiti, Dausa.
2. प्रत्यर्थी / The Respondent- CIT(Exemption), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 749/JPR/2024)

Sd/-

(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar