

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्यके समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 837/CHNY/2024

**Ayiravaisya Kasukkara
Chettiyargal Mahasabai,**
2/26, Akraharam Street,
Virudhunagar – 626 001.

The Income Tax Officer,
Vs. Ward-1,
Virudhunagar.

PAN: AANAA 4612J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Shri P.M.Kathir, Advocate

प्रत्यर्थीकीओरसे/Respondent by

: Shri G. Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 09.07.2024

घोषणा की तारीख/Date of Pronouncement

: 09.07.2024

आदेश /O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Exemption), Chennai dated 29.03.2023, rejecting Form No.10AB filed for seeking registration/approval/recognition u/s.12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereinafter the 'Act').

2. At the outset, it is noticed that these appeals are barred by limitation by 305 days and assessee has filed affidavit for

condonation of delay. The facts of the case are that the orders of CIT(E) is dated 29.03.2023. As per Form 36, the assessee has received this order on 29.03.2023 and appeal should have been filed on or before 28.05.2023 but appeal was actually filed on 28.03.2024 and thereby, there is a delay of 305 days. The assessee filed affidavit for condonation of delay of 305 days stating the reasons as under:-

"4. The Appellant submitted response along with copy of the amendment deed on 21.03.2023 itself. However, to the utter shock of the Appellant, an order of the CIT dated 29.03.2023 was received rejecting the application stating failure on the part of the Appellant to file response to the notice dated 17.03.2023.

5. Immediately on 30.03.2023, the Appellant filed a rectification petition seeking to consider the amendments made earlier and to grant registration u/s 12A. Since there was no response, the Appellant raised a grievance application on 10.07.2023. This grievance was closed on 19.07.2023 stating that there is no provision to rectify order passed and to file appeal against the order before the Hon'ble ITAT. But this was viewed by the Appellant only after the receipt of assessment order for the A.Yr.2022-23 dated 28.02.2024. This rejection of approval is now challenged before the Hon'ble Income Tax Appellate Tribunal.

6. The present appeal ought to have been filed on or before 28.05.2023 but is being filed with a delay. I submit that the delay in filing this appeal is neither wilful nor wanton but not being aware of the closure of grievance. However once aware, the Petitioner / Appellant immediately took steps to file the appeal. The Petitioner / Appellant would be put to grave loss and hardship if the delay is not condoned. A meritorious case would be lost, if the delay is not condoned. No prejudice will be caused to the Respondent by condoning the delay and the balance of convenience thus lies in favour of the Petitioner."

2.1 When confronted, the Id. Senior DR contested the condonation petition and stated that there is no reasonable cause.

2.2 After hearing rival contentions and going through the facts of the case, we are of the view that delay can be condoned with a cost of Rs.5,000/- to be paid to the Tamil Nadu State Legal Services

Authority at Hon'ble High Court of Madras within a month's time from the date of receipt of this order. Hence, seeing circumstances and cost adduced to assessee, we condone the delay and admit the appeal by levying a cost of Rs.5,000/- (Five thousand only). In term of the above, the appeal of the assessee is accordingly admitted for adjudication.

3. The only issue in this appeal of the assessee is as regards to order of the CIT(E) denying final registration vide order dated 29.03.2023 rejecting the assessee's application filed in Form No.10AB dated 12.09.2022 u/s.12A(1)(ac)(iii) of the Act. For this, the assessee has raised various grounds raising issue of violation of principles of natural justice and rejecting the application without granting due opportunity.

4. We have heard rival contentions and gone through facts and circumstances of the case. Brief facts are that the assessee filed an on-line application in Form No.10AB dated 12.09.2022 u/s.12A(1)(ac)(iii) of the Act, seeking registration u/s.12AA of the Act. The CIT(E) required the assessee to furnish relevant documents and details and in response to letter, the assessee filed its submissions through e-filing portal on ITBA on 20.02.2023. The CIT(E) noted that the assessee trust is formed for benefit of a particular religious community and hence, exemption cannot be

granted. But, apart from that he has not given any finding as to how the trust is formed for benefit of a particular religious community. The assessee filed copy of amendment deed dated 21.03.2023 in response to notice dated 17.03.2023, but the CIT(E) vide order dated 29.03.2023 rejected the application without stating anything in regard to amendment in the trust deed.

5. We find that in the interest of principles of natural justice, the CIT(E) should have examined the amended trust deed and thereafter, decide the issue of grant of registration. Hence, we set aside the order of CIT(E) and remand the matter back to the file of CIT(E) for fresh adjudication, after allowing reasonable opportunity of being heard. The appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 9th July, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 9th July, 2024

DS

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त /CIT, Madurai
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF.