

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-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. 307 & 308/JPR/2024

Vidhya Aditi Foundation 122/148, Mansarovar, Jaipur.	बनाम Vs.	The CIT-Exemption, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAFAV1214R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Vikash Rajvanshi, C.A.
राजस्व की ओरसे / Revenue by : Shri Anil Kumar Bhardwaj CIT (Th. V.C.)

सुनवाई की तारीख / Date of Hearing : 25/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 29/07/2024

आदेश / ORDER

Per Bench:

The two above captioned appeals have been filed by the assessee, named above. These arise out of separate orders dated 17.02.2024 passed by Learned Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to as CIT(E)].

Since common questions are involved, both the appeals have been argued together, same are being disposed of vide common judgment.

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2. Appellant claiming itself to be a charitable society moved an application on 29.09.2023 in Form 10AB, before Learned CIT(E), seeking registration u/s 12AB of the Income Tax Act, 1961 (hereinafter referred to as the "Act"). Said application has been dismissed by Learned CIT(E) vide order dated 17.02.2024, while rejecting registration on the following three grounds:-

- Incomplete Form 10AB having been submitted.
- Registration under Rajasthan Public Trust Act, 1959 not proved.
- Genuineness of activities of trust not established.

3. That is why, the applicant is feeling aggrieved and has preferred this appeal.

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4. By way of this second mentioned appeal, applicant society has challenged order dated 17.02.2024 passed by Learned CIT(E) as thereby its application in Form 10AB, presented on 29.09.2023 has been rejected and consequently, its prayer for approval under clause (ii) of first proviso to sub-section (5) of Section 80G of the Act has been disallowed. The ground for rejection of application, as per impugned

order, is that the applicant was not eligible to apply under clause (ii) of Section 80G(5) of the Act, when its earlier application under clause (iii) of Section 80G(5) of the Act, stood already rejected, same having been withdrawn on 22.05.2023.

5. Arguments heard. File perused.

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6. In this appeal, the only contention raised by Ld. AR for the appellant is that in para 4 of the impugned order, while rejecting application u/s 12AB of the Act, Learned CIT(E) observed that the applicant failed to comply with notices/letters despite three opportunities provided to the applicant, but this fact recorded in the impugned order is against record.

Ld. AR for the appellant has submitted copy of e-proceeding Response Acknowledgement dated 09.02.2024 to submit that on the said date i.e. 09.02.2024, in reply to the notice dated 05.02.2024 issued by Learned CIT(E), 16 documents were uploaded on the portal of the department as regards said application. Copy of said Acknowledgment dated 9.2.2024 has been shown to Ld. DR for the department.

7. Ld. DR for the department, representing the department before us happens to be the Learned CIT(E) whose order has led to rejection of

the application. He has submitted before us copies of certain downloaded documents. Their one set has been supplied to Ld. AR for the applicant.

Having gone through, and faced with copies of the documents relied by Ld. AR. Ld. DR for the department has referred to above said copies of the opinion history/ Notings, downloaded from the portal, to submit that only one line reply was furnished on behalf of the applicant by way of response to only one of the notices, and also highlighted that in the column “ view document”, there is no mention of uploading of any document on 09.02.2024 from the side of the applicant.

8. It is true that in the above said column “view document”, there is no mention of uploading of any document from the side of the applicant on 09.02.2024, but Ld. DR for the department candidly admits that in view of the e-Proceedings Response Acknowledgement submitted today on behalf of the appellant, it appears that due to some technical defect in the system of the department, none of the 16 documents is shown to have been uploaded on the portal.

Accordingly, Ld. DR for the department has no objection to the remand of the matter for decision of the application afresh, after providing reasonable opportunity of being heard, to the applicant.

9. For the foregoing reasons and discussion, we find that reasonable opportunity of being heard, having not been granted to the applicant, for the purposes of effective disposal of the application under section 12 AB of the Act this is a fit case where the matter needs to be remanded to Learned CIT(E) for decision afresh.

Result

10. As a result, this appeal ITA No. 308/JPR/2024 is disposed off for statistical purposes, and the matter is remanded to Learned CIT(E) for decision of the application u/s 12AB of the Act afresh, in accordance with law.

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11. So far as this appeal is concerned, Ld. AR for the applicant submits that the applicant has presented fresh application under the relevant clause of section 80G of the Act, before Learned CIT(E), and as such this appeal be dismissed having become infructuous.

Ld. DR for the department admits this fact, and adds that even notices have already been issued on the fresh application.

Result

12. In view of the above submission, this appeal No.307/JPR/2024 is hereby dismissed as having become infructuous.

Copy of the common judgment be placed in the record of the second mentioned appeal.

Order pronounced in the open court on 29/07/2024.

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

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

जयपुर / Jaipur

दिनांक / Dated:- 29/07/2024

*Santosh

आदेश की प्रतिलिपिअग्रेहित / Copy of the order forwarded to:

1. The Appellant- Vidhya Aditi Foundation, Jaipur.
2. प्रत्यर्था / 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. 307 & 308/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar