

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND

SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.243/PUN/2024

D.A. Satav Alis Karbhari Anna Charitable Foundation, Sonai Niwas Kasba, Tal Baramati, Pune – 413 102 Maharashtra PAN : AAABD0431C	Vs.	CCIT Exemption, Pune
Appellant		Respondent

Assessee by : Shri Baburao Vasudeo Neel

Revenue by : Shri Keyur Patel, CIT-DR

Date of hearing : 29.07.2024

Date of pronouncement : 30.07.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is appeal filed by the appellant trust directed against the separate orders of the CIT Exemption, Pune dt. 12.12.2023 denying registration u/s.12AB r.w.s. 12A(1)(ac)(vi) of the Income-tax Act, 1961 (hereinafter also called 'the Act').

2. Brief facts of the case are that the appellant is a Trust, filed application in Form No.10AB dated 25.08.2023 seeking registration u/s.12A(1)(ac)(iii) of the Act. On receipt of the said application, the Id. CIT (Exemptions), in order to verify the genuineness of activities of the appellant trust, issued notice through ITBA portal on 23.10.2023 calling for certain information/clarification. However, for the reasons best known to the appellant trust could not comply with the said notice. In the

circumstances, the Id. CIT(Exemptions) rejected the application filed by the appellant trust for grant of registration u/s.12AB by holding that he could not reach to a conclusion about genuineness of activities of the assessee and the compliance to the requirements of any other law for the time being in force by the trust/institution.

3. Being aggrieved, the appellant trust is in appeal before the Tribunal in the present appeal.

4. The Id. AR for the appellant trust submitted that the service of notice through ITBA portal is not a valid method and manner of service of notice as specified under the provisions of section 282(1) of the Income-tax Act, 1961 Act and Rule 127(1) of the Income-tax Rules, 1962. Therefore, in the interest of justice, it is prayed that the matter may be remanded to the file of CIT(Exemptions).

5. The Id. DR submitted that the appellant trust did not comply with the notices issued through ITBA portal and not furnished any explanation with regard to the discrepancies pointed out by the CIT Exemptions, despite giving sufficient opportunity. Therefore, the authorities were justified in rejecting the application by the appellant trust seeking registration u/s.12AB of the Act.

6. We heard the rival submissions and perused the relevant material on record. In the instant case, the appellant trust filed application in Form No.10AB dated 25.08.2023 seeking registration u/s.12A(1)(ac)(iii) of the Act. The CIT(Exemptions) rejected the application filed by the appellant trust owing to non-compliance of the appellant trust to the notices issued through ITBA portal. On mere perusal of the contents of para no.4 of the impugned order, it would reveal that the notices were served through e-portal. In our considered opinion, it is not a valid method and manner of

service of notice as specified under the provisions of section 282(1) of the Income-tax Act, 1961 Act and Rule 127(1) of the Income-tax Rules, 1962. Therefore, it is crystal clear that the notices were not served upon the appellant trust. To fortify our view, we would like to make a reference to a decision rendered by the Hon'ble Punjab & Haryana High Court in the case of *Munjal BCU Centre of Innovation and Entrepreneurship Vs. CIT (Exemptions) (2024) 463 ITR 560 (P&H)*, wherein the Hon'ble High Court after making reference to provisions of 282(1) held that service of notice through ITBA portal is not valid service and remanded the matter to AO for *denovo* disposal of case. The relevant paragraphs of the judgment are reproduced below :

*“7. We are afraid that we cannot subscribe to the submissions as advanced by the learned counsel for the Revenue-respondent. The provisions of section 282(1) of the Act of 1961 and rule 127(1) of the Income-tax Rules, 1962 provides for a method and manner of service of notice and orders which read as follows :*

.....  
 .....

*8. In view of the above, it is essential that before any action is taken, communication of the notice must be done in terms of the provisions as enumerated hereinabove. The provisions do not mention communication to be “presumed” by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income-tax provisions and the same are required to be necessarily followed.*

*9. Having noticed as above, this court is of the firm view that the petitioner has not been given sufficient opportunity to put up its plea with regard to the proceedings under section 12A(1)(ac)(iii) of the Act of 1961 and as it was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.*

*10. In view of the above, the writ petition is allowed and the order dated January 16, 2023 (annexure P-5) is quashed and set-aside. The*

*Department would provide an opportunity of hearing to the petitioner and they will also allow the petitioner to appear personally for the purpose and pass a speaking order independent of the order passed earlier by them on January 16,2023. The same shall be done expeditiously provided the petitioner file his reply within a period of three weeks.”*

In view of the above legal position, we are of the considered opinion that the notice(s) of hearing were not served properly to the appellant trust. In the circumstances, we find it is a fit case to remand the matter to the file of CIT(Exemptions) for *denovo* disposal of application of the appellant trust after affording due opportunity in accordance with law. The appeal filed by the appellant trust stands partly allowed for statistical purposes.

7. In the result, the filed by the appellant trust is partly allowed for statistical purposes.

Order pronounced on this 30<sup>th</sup> day of July, 2024.

**sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Pune / Dated : 30<sup>th</sup> July, 2024.  
*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “A” बेंच, पुणे / DR, ITAT, “A” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.