

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.641/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2024-25

Mallappa Suryawanshi Kolhapur, R.S. No.599, Plot No.45, Mahada Colony, Balaji Park Ramandan Nagar, Kolhapur- 416012. PAN : AAGTM4718F	Devappa Pratishan	Vs.	CIT (Exemption), Pune.
Appellant			Respondent

Assessee by : Shri P. S. Kulkarni  
Revenue by : Shri Keyur Patel  
Date of hearing : 08.08.2024  
Date of pronouncement : 12.08.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 20.03.2024 passed by Ld CIT(Exemption), Pune.

2. The facts of the case, in brief, are that the assessee is a trust provisionally registered on 27-05-2021 for the periods A.Y. 2021-22 to A.Y. 2023-24. The assessee trust applied for permanent registration on 29-09-2023 before LD CIT(E). But

inadvertently the assessee in Form 10AB (application for permanent registration) mentioned sub-clause (ii) of clause (ac) of sub section 1 of section 12A instead of sub-clause (iii) of clause (ac) of sub section 1 of section 12A of the IT Act. Therefore LD CIT(E) presumed that the trust is already registered u/s 12AB of the IT Act & the application is for renewal of its registration. LD CIT(E) requested for filing of the copy of regular registration which could not be filed by the assessee because the assessee trust was only provisionally registered u/s 12AB of the IT Act. Therefore LD CIT(E) rejected the application of the assessee by observing as under in para 4 to 5 of his order :-

*“4. The present application is filed by the assessee under clause (ii) of section 12A(1)(ac) of the Income Tax Act, 1961. The provisions of clause (ii) of section 12A(1)(ac) are related to application for renewal of regular registration of a trust or institution which is already having regular registration under section 12AB of the Act and the period of said registration is about to expire.*

*4.1 The assessee was specifically requested vide the initial notice to furnish the copy of order of regular registration under section 12AB of the Income Tax Act, 1961. Such copy is actually required to be furnished along with the application itself under the provisions of Rule 17A(2)(e) of the Income Tax Rules, 1962. However, the assessee has neither submitted the same along with the application nor in response to the notice issued in this regard. Thus the assessee failed to furnish the same. The copy of order submitted by the assessee is a copy of provisional registration under section 12AB read with, clause (vi) of section 12A(1)(ac) of the Income Tax Act, 1961 and not a copy of regular registration under section 12AB read with clause (i) or clause (iii) of section 12A(1)(ac) of the Income Tax Act, 1961.*

*4.2 The non-submission of copy of order of regular registration under section 12AB of the Income Tax Act, 1961 establishes the fact that the prerequisite for application under clause (ii) of Section 12A(1)(ac) of the Income Tax Act, 1961 is not fulfilled in this case. Therefore, prima-facie it appears that the application is not maintainable.*

*5. In view of the above, the application filed by the assessee is treated as non-maintainable and hence, 'rejected' for statistical purposes without going into the merits of the case and no adverse inference is drawn against the assessee."*

3. Ld. AR admitted before us that due to an inadvertent error the application was filed under sub clause (ii) of clause (ac) of sub section 1 of section 12A instead of sub clause (iii) of clause (ac) of sub section 1 of section 12A, which compelled LD CIT(E) to presume that the application is for renewal of registration & consequently it was dismissed by LD CIT(E). It was further submitted by the counsel of the assessee that as soon as the dismissal came in the knowledge of the assessee, another application for registration under sub-clause (iii) of clause (ac) of sub-section 1 of section 12A of the IT Act was filed on 22-03-2024 which is still pending before LD CIT(E). LD AR also relied on the decision passed by a coordinate bench of this Tribunal in the case of Sri Jeyamconda Choleeswara Soundaranyaki Amman Kumbhbhisheka Malar Kuzhu vs. ITO in ITA No.978/CHNY/2023

order dated 31-01-2024, wherein identical situation LD CIT(E) was directed to consider the fresh application filed by the assessee for registration.

4. LD DR raised no objection if direction is issued to LD CIT(E) to consider the fresh application already filed by the assessee.

5. We have heard LD counsels from both the sides & perused the material available on record. We find that due to typographical error the correct code could not be mentioned in the application form for permanent registration & consequently the application was dismissed by LD CIT(E). LD AR produced before us the copy of decision passed by a coordinate bench of this Tribunal wherein identical situation the appeal of the assessee trust was allowed & LD CIT(E) was directed to consider the fresh application filed by the assessee after mentioning the correct code & section. We therefore find force in the arguments of the counsel of the assessee & following the decision passed by coordinate bench of this Tribunal in the case of Sri Jeyamconda Choleeswara Soundaranyaki Amman Kumbhbhisheka Malar Kuzhu vs. ITO in ITA No.978/CHNY/2023 order dated 31-01-2024, set-aside the

order passed by LD CIT(E) with direction to consider the fresh application already filed by the assessee on 22-03-2024 in this regard. Thus, the grounds of appeal raised by the assessee are accordingly 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 12<sup>th</sup> August, 2024.

Sd/-  
**(R. K. PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> August, 2024.

*Sujeet*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Exemption), Pune.
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.