

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 1338/DEL/2024 [A.Y]

M/s Bird Heritage Foundation
E - 9, Connaught House
Connaught Place, New Delhi

Vs.

The C.I.T.[E]
New Delhi

PAN - AAICB 6450 C

(Applicant)

(Respondent)

Assessee By : Shri Tarandeep Singh, Adv
Shri Sandeep Yadav, Adv

Department By : Ms. Ritu Sharma, CIT- DR

Date of Hearing : 13.08.2024

Date of Pronouncement : 21.08.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
CIT(E), Delhi dated 10.08.2023.

2. The solitary issue raised by the assessee is that the ld. CIT(E) erred in not providing sufficient time to comply with the notices and not providing opportunity of being heard in person.

3. The representatives of both the sides were heard at length, the case records carefully perused.

4. The ld. counsel for the assessee has filed an application u/s 253(5) of the Income-tax Act, 1961 [the Act, for short] praying for condonation of delay in filing the appeal. The ld. counsel for the assessee has also filed an affidavit stating that only on receiving a phone call from the CIT(E) he perused the impugned order and noticed that two notices were not served upon the assessee -company.

5. The assessee further stated that notices were on ITBA Portal which was not visited by him and the notices were not communicated to the assessee. He was under a bonafide belief that in the absence of tax demand, no appeal could be filed and the only remedy was to re apply for registration u/s 12A of the Act. The ld. counsel for the assessee relied upon the decision of the Hon'ble Punjab and Haryana High Court in

the case of Munjal BCU Center of Innovation and Entrepreneurship in which it has been held that notices appearing on portal is not sufficient and must be communicated to the assessee. Accordingly, the assessee has filed a fresh application seeking registration u/s 12A(1)(ac)(iii) of the Act.

5. The ld. DR objected to the condonation of delay.

6. We find that there is a delay of 169 days which stands reasonably explained. Accordingly, we condone this delay and admit the appeal.

7. We have carefully considered the orders of the ld. CIT(E) and have perused the documents which have been filed before us. From the affidavit it is evident that the assessee did not receive the notices issued. Provisional Registration Order dated 03.10.2023 has been furnished on record. We also find that the CIT(E) rejected the application filed by the applicant for grant of registration u/s 12A(1)(ac)(iii) of the Act on the ground that the assessee's case could not be verified.

9. In that view of the matter, in the interest of justice and fair play, we restore the issues to the file of the ld. CIT(E). The assessee is directed to furnish the original documents for verification and the ld. CIT(E) is directed to examine the same and decide the issue as per the provisions of law after affording reasonable and sufficient opportunity of being heard to the assessee for issuing regular registration u/s 12A(1) of the Act and regularize the provisional certificate.

10. In the result, the appeal of the assessee in ITA No. 1523/DEL/2024 is allowed for statistical purposes.

The order is pronounced in the open court on 21.08.2024.

Sd/-

**[VIKAS AWASTHY]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: 21st August, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent

3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	