



IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 1856/MUM/2024

ITA No. 1857/MUM/2024

(A.Y.2024-25)

Kamla Foundation,
05 Tulja Bhavan,
Opp. Fish Market Old
Palghar,
Palghar-401404
(Appellant)

Vs.

Commissioner of Income
Tax (Exemption),
Pune

(Respondent)

PAN

AADTK 5816F

Assessee by

Shri Bhupendra Shah

Revenue by

Shri Biswanath Das, CIT(DR),

Date of hearing

22nd August, 2024

Date of pronouncement

28 August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. These are two appeals filed by the Kamla Foundation for Assessment Year (A.Y.) 2024-25 one against denial of



registration u/s 12 AB of the act and cancelling provisional registration and second against not granting recognition u/s 80G (5) of the Act.

2. ITA No. 1856/Mum/2024 is filed against the order of the learned Commissioner of Income Tax (Exemption) [CIT(E)], Pune dated 29.03.2023 wherein the application filed by the assessee in Form No. 10AB under Clause (iii) of Section 12A(1)(ac) of the Income Tax Act, 1961 (the Act) on 29.02.2022 was rejected and the provisional registration granted on 28.05.2021 was also cancelled.
3. The assessee has raised the solitary ground that submission dated 06.02.2023 and further refusing to rectify the error as per application dated 14.02.2024 has resulted into rejection of registration u/s. 12AB wrongly.
4. The assessee has stated that the appeal filed by the assessee is late by 308 days. The assessee explained that the order of the rejection was passed on 29.03.2023 without considering the details filed on 06.02.2023. Therefore, the assessee made an application for rectification on 13.02.2024 and also by speed post on 17.02.2024 and, therefore, the rectification application u/s. 154 of the Act was not disposed by the learned CIT(E), then assessee filed this appeal and therefore there is delay. Assessee has preferred this appeal which is late by 308 days. The assessee has also submitted an affidavit showing that the pendency of the rectification application has caused delay in filing of the appeal, which is sufficient reason and, therefore, it should be condoned.



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5. The learned Authorized Representative reiterated the same.
 6. The learned Departmental Representative objected to the same stating that the order of the learned CIT(E), Pune was received on 29.03.2023 whereas the assessee made an application for rectification on 14.02.2024 i.e. after 11 months and assessee is showing that reason for delay in filing of the appeal. He specifically referred to Point No. 1 of the affidavit. Thus, he stated that there is no sufficient reason shown by the assessee from 29.04.2023 till 14.02.2024. Therefore, the delay may not be condoned.
 7. We have carefully considered the rival contention and perused the application of the assessee for condonation of delay. The fact shows that the assessee is a charitable trust. The order of rectification undoubtedly was passed on 29.03.2023. It is also undisputed that the assessee filed an application for rectification of error only on 14.02.2024, therefore, in fact there is no justification or sufficient cause from 29.04.2023 till 14.02.2024. However, we find that by filing the application late the assessee has not got any benefit. In fact, if the assessee is not diligent about the limitation of time in pursuing his cause, he does not gain any advantage but he is at more disadvantage that he may lose as good case for bad reasons. However, looking to the peculiar facts of the case, where the claim of the assessee is that it has submitted certain details on 06.02.2023 which was not considered by the learned CIT(E) when the order of rejection was passed on 29.03.2023, it causes severe prejudice to the assessee. Even despite the making an



application for rectification same has not been rectified. In view of these peculiar facts, we admit the appeal of the assessee.

8. The facts of the case shows that an application for registration was filed by the assessee, learned CIT(E) issued a notice on 10.01.2023. The assessee was asked to submit the information by 25.01.2023. The notice was served on the assessee through e-portal, email and speed post. Another notice was issued to the assessee on 29.01.2023 by show cause notice as to why the application should not be rejected. In absence of any information, the learned CIT(E) rejected the application. However, before us, the assessee has shown a letter dated 06.02.2023 which is placed at Page Nos. 76 to 78 of the paper book which is not at all being considered by the learned CIT(E). If assessee has filed some explanation which needs to be considered and then issue may be decided. Non consideration, if any submission is made from the assessee, causes severe prejudice to the assessee, which must be corrected.
9. Therefore, after hearing the parties, we restore the issue back to the file of the learned CIT(E) to consider the explanation furnished by the assessee on 06.02.2023 and decide the issue afresh. The learned CIT(E) may carry out any enquiry, in accordance with law for verification of the genuineness of the activities for the purpose of granting registration. It would be the duty of the assessee to show all the details and the genuineness of the activities. Thereafter, the learned CIT(E) may decide the issue afresh. In view of



this ITA No. 1856/Mum/2024 filed by the assessee is allowed for statistical purposes.

10. ITA No.1857/Mum/2024 is also filed by the assessee for obtaining the recognition u/s. 80G of the Act. This application was also rejected vide order dated 29.03.2023 wherein the claim of the assessee is that it filed necessary details on 06.02.2023, which has not been considered. Therefore, for similar reasons as given in ITA No. 1856/Mum/2024, this appeal is also restored back to the file of the learned CIT(E) to consider the above explanation/submission and decide the issue afresh, in accordance with law. In view of this, ITA No. 1857/Mum/2024 filed the assessee is also allowed for statistical purposes.

11. In the final result, both the appeals filed by the assessee stand allowed for statistical purposes.

Order pronounced in the open court on 28/08/2024.

Sd/-

(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 28.08.2024

Aks/-

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File



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A Y : 2024-25

Kamla Foundation

Versus

CIT(Exemption)

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai



Sr. No.	Particulars	Date	Initials	Person concerned
1	Draft dictated	27.08.2024		Sr.PS
2	Draft placed before author	28.08.2024		Sr.PS
3	Draft proposed & placed before the second Member			AM
4	Draft discussed/approved by Second Member			AM
5	Approved Draft comes to the Sr.PS/PS			Sr.PS
6	Kept for pronouncement on			Sr.PS
7	File sent to the Bench Clerk			Sr.PS
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			
10	Dictation Sheet is attached herewith			