

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No. 416/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2024-25)

Indian Metal Public Charitable Trust Vs. CIT, Exemption
Bhubaneswar Hyderabad
[PAN :AAATI1460N]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Sri R.K.Sahoo, AR
राजस्व द्वारा/Revenue by: Sri Kumar Pranav, CIT-DR

सुनवाई की तारीख/Date of hearing: 08/08/2024
घोषणा की तारीख/Pronouncement on: 29/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 11/03/2024 passed by the learned Commissioner of Income Tax (Exemption) ("Ld. CIT(E)"), Hyderabad in the case of Indian Metals Public Charitable Trust ("the assessee") for the assessment year 2024-25, assessee preferred this appeal.

2. Brief facts of the case are that, assessee is a Charitable Trust. It obtained approval u/s. 80G(5) of the Act in form 10AC on 14/10/2021 to be valid till Assessment Year 2024-25. Subsequently on 29/09/2023, the assessee filed Form No.10AB. Ld.CIT(E) rejected the application filed in

Form No.10AB holding it to be infructuous and also barred by limitation, observing that the commencement of activities was much earlier.

3. Assessee submitted that it was a sheer mistake in selecting the section code under section 80G(5)(iv) instead of 80G(5)(i) and there was no malafide intention. Assessee relied on the decision of the Tribunal in the case of Telangana State Chapter Indian Radiological and Imaging Association Vs. ITO, wherein, it was held that an application for approval under section 80G(5) cannot be rejected on the basis of selecting the wrong form.

4. Learned CIT(E), however observed that such a decision was for that particular case and since the application filed by the assessee in Form No.10AB, seeking registration under section 80G of the Act is infructuous, the same is not maintainable. On that ground, learned CIT(E) rejected the same. Aggrieved by the order passed by the learned CIT(E), assessee is in appeal before us.

5. The Id.AR had submitted that there was lack of clarity at the time of filing the application by the assessee on 29/09/2023, as on account of newly introduced forms, requiring the assessee to apply for grant of provisional/final approvals. In fact, the time line for making the application had repeatedly been extended by the Board and finally by Circular No.07/2024 dated 25/04/2024, it stood extended till 30/06/2024. It was submitted that selection of wrong column/form by the assessee was unintentional and the assessee was willing to file all the details as may be required for grant of final approval. Per contra, learned DR relied upon the order passed by the lower authorities.

6. We have gone through the records in the light of the submissions made either side. Admittedly, the assessee was a Trust holding registration u/s. 80G of the Act prior to 31.03.2021 and was required to submit the application u/s. 80G(5) of the Act after ticking the correct section code in

Form 10A. However, on account of the error in submitting the correct application, the provisional registration was granted to the assessee on 19.03.2022. As per the section 80G(5)(iii) of the Act, the assessee was required to file an application for permanent registration within six months of grant of provisional registration. The relevant portion of the Act, provides as under:

(iii) where the application is made under clause (iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the institution or fund:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the first proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

in any other case, from the assessment year immediately following the financial year in which such application is made.]

7. The assessee filed the application for grant of permanent registration vide application dt. 29/09/2023, being the existing continuing Trust. Such an application of the assessee has been rejected by the learned CIT(E) on the ground that the assessee was having registration upto assessment year 2024-25.

8. Assessee, being a Trust registered even prior to 31.03.2021 and thereafter applied for registration, as mentioned above on provisional basis. In our considered opinion, though the assessee had committed a mistake in selecting the wrong section code while making an application

at the first instance, however, for such a mistake, the permanent registration cannot be denied by the respondent. It cannot be disputed that CBDT extended the due date for filing of Form Nos.10A/10AB under the Act and as on the date, it stood extended till 30/06/2024 by Circular No.07/2024.

9. In these circumstances, it occurs to our mind that it would have been better, if the respondent cross-verifies the details submitted by the assessee at the earliest point of time of issuance of provisional certificate and should have issued a notice at that time by pointing out the wrong selection of section code by the assessee, so that the assessee could have rectified the mistake.

10. Be that as it may, in an identical matter, a coordinate Bench took a view that the ends of justice would be met, if the assessee is allowed to rectify the mistake. We, therefore, taking a pragmatic view of the matter, deem it just and proper to remand the issue to the file of the learned CIT(E) to permit the assessee to rectify the mistake in submitting the application form and to consider the application of assessee for grant of permanent registration. Needless to say, the assessee is directed to co-operate with the learned CIT(E) and shall file all the necessary details as may be required by the learned CIT(E), for speedy disposal of the case.

11. In the result, appeal of assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 29th day of August, 2024.

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,

Dated: 29/08/2024

L.Rama, SPS

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Indian Metal Public Charitable Trust, IMFA Building, Bomkhal, Rasulgarh, Odisha
2. The CIT, Exemption, Hyderabad
3. DR, ITAT, Hyderabad.
4. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD