

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1595 & 1596/Chny/2024
निर्धारण वर्ष/Assessment Year: 2024-25

WE CARE, No.1B, AVM Plaza, Om Sakthi Avenue, Karuvadikuppam, Puducherry-605 008.	v.	The ITO (Exemptions) Ward-1, Chennai.
[PAN: AAATW 1119 Q]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri V. Meenakshi – Sundaram, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri A. Sasikumar, CIT
सुनवाईकीतारीख/Date of Hearing	:	22.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	30.08.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Exemptions), (hereinafter in short "the Ld.CIT(E)"), Chennai, dated 08.09.2023 rejecting the application dated 22.03.2023 in Form 10AB u/s.12A(1)(ac)(iii) of the Income Tax Act, 1961 (hereinafter in short "the Act") for registration u/s.12AB of the Act as well as application filed under clause (iii) of first



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proviso to sec.80G(5) of the Act, denying the approval u/s.80G of the Act.

2. At the outset, it is noticed that there is a delay of '200' days in filing of these appeals; and the assessee Trust has filed Affidavit, explaining the delay and also requested to condone the delay. The cause of the delay, we note was because assessee Trust wasn't aware about rejection orders passed by the Ld.CIT(E) due to change in its address; and once they came to know about the impugned decision of the Ld.CIT(E), appeals were filed in ITAT on 25.05.2024. After perusal of the contents of the Affidavit, we find that delay caused in filing the appeals can't be termed as deliberate/negligent. And it is common knowledge that no assessee derives any benefit by not filing the appeal. Therefore, for the ends of justice and fair play, we condone the delay and proceed to hear the appeals on merits.

3. According to the Ld.AR, the assessee Trust enjoyed registration u/s.12A of the Act vide order dated 21.06.2006 and after the new regime came into force, the assessee inadvertently obtained provisional registration u/s.12A of the Act from 28.02.2023 to AY 2025-26 vide order dated 28.02.2023. Likewise, assessee had obtained earlier approval u/s.80(5)(vi) dated 21.06.2006; and after the new regime came into force, the assessee inadvertently obtained provisional approval



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u/s.80G(iv) of the Act from 28.02.2022 to AY 2025-26 vide order dated 28.02.2023 and in order to obtain the regular registration/approval u/s.12AB/80G of the Act, the assessee filed the applications before the Ld.CIT(E), which has been dismissed *ex-parte* for non-compliance on the part of the assessee. It is brought to our notice that notices were issued by Ld CIT(E) to the earlier address at Vellore, whereas, the assessee's new address is at Pondicherry. Therefore, the Ld.CIT(E) passed the *ex parte* order qua assessee rejecting both registration u/s.12AB/80G of the Act. We note that the assessee couldn't comply with the directions given by the Ld.CIT(E), because, no notices could be served upon it due to change of address. Therefore, there exist reasonable cause for non-compliance to the directions of the Ld.CIT(E). Therefore, for the ends of justice and fair play, we set aside impugned order of the Ld.CIT(E) and restore the applications back to the file of the Ld.CIT(E) for deciding the application on merits in accordance to law after hearing the assessee and after considering our discussion/direction at para 4 *infra*.

4. Before parting, we note that assessee is an old Trust enjoying the registration u/s.12A as well as approval u/s.80G of the Act (from AY 2007-08 onwards). It is engaged in charitable activities which paved way for them to be granted such registration by the competent authorities. Be that as it may, after the amendment/new regime w.e.f. 01.04.2021, we note that assessee being an old Trust, ought to have filed its application



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for registration u/s.12A(1)(ac)(i) which would have facilitated automatic registration for five years from AY 2022-23 onwards (*taking note that assessee filed for registration in February, 2023 which is well within the extended time given by CBDT*). However, it is noted that assessee has inadvertently applied as if it is a new Trust u/s.12A(1)(ac)(vi) rather than under sub-clause (i) of sec.12A(1)(ac) of the Act (which was meant for old Trust like assessee). In such factual back ground, the Ld.CIT(E) while processing this application of assessee (in this case, assessee has applied for regular registration u/s.12A(1)(ac)(iii) meant for new Trust), ought to appreciate that assessee Trust was an old Trust and if it correctly applied u/s.12A(1)(ac)(i) of the Act, could have automatically got registration for five years and should have been granted such registration from AY 2022-23 onwards, because, provisional registration is only granted from AY 2023-24 onwards, which may result in assessee being denied benefit u/s.11 of the Act for AY 2022-23. Considering the aforesaid facts, the assessee's application may be considered by Ld CIT(E) for grant of registration u/s.12Ab for five years form AY 2022-23 onwards, and if advised, assessee to file hard copy of relevant applications for grant of registration u/s 12AB as well as for approval u/s.80G of the Act also. And the Ld.CIT(E) to call for relevant documents to ascertain the aforesaid facts and consider granting registration for five years from AY 2022-23 onwards, ignoring the inadvertent mistake in filing under wrong sub-



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clause of section 12A(1)(ac) or under first proviso to section 80G of the Act.

5. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 30th day of August, 2024, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 30th August, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF