

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "A" JAIPUR
(Video Conference)

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 537 & 538/JP/2024
निर्धारण वर्ष/Assessment Year : -

Dev Shikshan Sansthan Piprali Road, Sikar Distt: Sikar 33 2001	बनाम Vs.	CIT (Exemption) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AA EAD 6608 G 7644P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Mrs. Prachala Kabra, CA
राजस्व की ओर से / Revenue by: Shri Arvind Kumar, CIT-DR

सुनवाई की तारीख / Date of Hearing : 01/07/2024
उदघोषणा की तारीख / Date of Pronouncement: 02 /09/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

These are two appeals filed by the assessee against orders of the Learned Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to as "CIT(E)"] both dated 24.02.2024 passed in the matter of section 12AB and 80G of the Income Tax Act, 1961 respectively. The Grounds of appeal raised by the assessee are mentioned at Form 36 in respective appeals

2.1 As per the fact of the present case, the ld CIT(E) rejected the application of the assessee for registration under section 12AB of the Act on the following grounds:-

- 1 incomplete form 10 AB
- 2 Registration under Rajasthan Trust Act 1959
- 3 Genuineness of activities and non compliance

2.2 In this regard ld. AR submitted that the application for registration of the assessee was wrongly rejected by ld CIT(E) as the assessee has already started the process for registration under the said Act. However after rejection, it was also submitted that the assessee is likely to get the said registration shortly. And as far as the other ground of rejection is concerned, ld AR submitted that no notice was served upon the assessee and thus assessee could not get reasonable opportunity therefore the order passed by ld CIT(E) are against the principle of natural justice.

2.3 On the contrary ld. DR supported the orders of ld CIT(E) and submitted that proper opportunity was granted but assessee failed to file necessary documents and details and further failed to justify the genuineness of activities.

2.4 After hearing the counsel for both the parties and after perusal of the Orders passed by Id CIT(E), we noticed that in spite of opportunities the assessee failed to comply with the same and not filed necessary documents.

2.5 Be that as it may, without going into the allegations and counter allegations of both the parties, we are of the view that since necessary documents were not on the file before Id CIT(E) for adjudicating the application on merits, Therefore, bench feels that one more opportunity be granted to the appellant. Thus the present appeal is restored to the file of Id CIT(E) to decide it afresh by providing one more opportunity of hearing. The assessee would be at liberty to file any documents in support of its application for seeking registration. However the assessee will not seek any adjournment on frivolous ground and remained cooperative during the course of proceedings. Thus The Appeal of the assessee is allowed For statistical purposes.

2.6 Before parting, we may make it clear that our decision to restore the matter back to the file of the Id CIT(E) shall in no way be construed of having any reflection or expression on the merits of the dispute, which

shall be adjudicated by the Id CIT(E) independently in accordance with law.

2.7 As regards the other appeal of the assessee relating to approval u/s 80G of the Act, it may be noted that since it is consequential to registration of the Trust u/s 12AB of the Act, the Id. CIT(E) is directed to consider approval u/s 80G in accordance with Income Tax Act, 1961 in set aside proceeding.

3.0 In the result, both the Appeals of the assessee are allowed for statistical purposes with no orders as to costs.

Order pronounced in the open court on 02 /09/2024.

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 02 /09/2024

*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Dev Shikshan Sansthan, Sikar
2. प्रत्यर्थी / The Respondent- CIT(E), Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 537 & 538/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar