

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, "A" JAIPURश्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AMआयकर अपील सं./ITA No. 632& 633/JP/2024  
निर्धारण वर्ष / Assessment Year : 2023-24 & 2024-25

Save our City F-72/105 Sury Oday Complex, Subhash Marg, Jaipur	बनाम Vs.	CIT (Exemption) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABATS 9925 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Jain, Adv  
Shri Ashok Kumar Gupta, Adv  
राजस्व की ओर से / Revenue by: Shri Arvind Kumar, CIT-DRसुनवाई की तारीख / Date of Hearing : 07/08/2024  
उदघोषणा की तारीख / Date of Pronouncement: 02 /09/2024आदेश / ORDER

PER: SANDEEP GOSAIN, JM

These are two appeals filed by the assessee against different orders of the Learned Commissioner of Income Tax (Exemption), Jaipur [hereinafter referred to as "CIT(E)"] both dated 30-11-2022 & 17-02-2023 passed in the matter of section 12AB and 80G of the Income Tax Act, 1961 respectively.

2.1 At the very outset of the hearing, we noticed that there is delay of 463 days and 385 days in the respective appeals of the assessee. In this regard, the Id. AR has moved an application for seeking condonation of delay wherein it has been specifically mentioned that the impugned order was received on the portal on 30-11-2022 and it was not served upon the assessee physically as per date of order the appeal in question was to be filed on or before 29-01-2023. However, the assessee had taken advice from one of the Counsel who advised / guided that since the registration of the assessee u/s 12AA has been rejected by the Id. CIT(E) only on the ground of Non-registration from Rajasthan Devasthan Vibhag under Rajasthan Public Trust Act, 1959. Hence, now the assessee trust can apply for the registration with the Rajasthan Devasthan Vibhag, Jaipur and after getting the certificate of registration from the Rajasthan Devasthan Vibhag, Jaipur he can re-apply for registration of the Trust u/s 12AA of the Act before the Id. CIT(E). Therefore, in this manner, the delay in filing the present appeals took place and thus the delay is not on account of any negligence on the part of the assessee trust.

2.2 On the contrary, the Id DR opposed the reasons advanced for condonation of delay made by the assessee in filing the above appeals.

2.3 After hearing both the parties and perusing the materials available on record including the orders of the Id CIT(E) and applications of the assessee for seeking condonation of delay, we found that the registration of the trust u/s 12AB was rejected by the Id. CIT(E) only on the sole ground that the assessee trust is not registered under Rajasthan Public Trust Act, 1959. In this regard, the assessee had already applied immediately after the order of the Id. CIT(E) and ultimately got the registration on 24-08-2023 and thereafter filed the present appeals. To our mind, there exists sufficient cause for seeking condonation of delay in filing the present appeals by the assessee trust and the assessee trust was under bona fide belief that the assessee trust acted on the advice of its counsel. Therefore, the assessee cannot be penalized and the right of the assessee cannot be scuttled down merely on the fact that he had filed the present appeals with the delay of 463 days and 385 days. Therefore, considering the totality of the facts and circumstances of the case as narrated in the application for seeking condonation of delay and keeping in view the principles laid down by the Hon'ble Supreme Court in the case of Collector, land Acquisition vs. MSt. Katiji and Others, 167 ITR 471 (SC) , we condone the delay in filing the present appeals and thus appeals of the assessee are admitted. Hence, in this view of the

matter, the Bench is of the view that the matter as to registration of the Assessee trust needs to restore back to the file of the Id.CIT(E) to decide it afresh in view of its obtaining the certificate from Devsthan Vibhag, Jaipur Khand, Jaipur and provide one more opportunity of being heard to the assessee. The assessee is also directed to produce the certificate obtained from Devsthan Vibhag, Jaipur Khand. Jaipur to settle the dispute of Registration u/s 12AB of the Act.

2.4 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 proceedings.

2.5 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 as 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.

3.0 In the result, the appeals of the assessee are allowed for statistical purposes.

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 अग्रेशित / Copy of the order forwarded to:

1. The Appellant- Save Our City, Jaipur
2. प्रत्यर्था / 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. 632 & 633/JP/2016)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar

