

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND

SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.902 & 903/PUN/2024

Hingoli Zillha Vipashyana Samiti, Chincholi, Taluq Hingoli, Dist. Hingoli – 431513 Maharashtra PAN : AACTH1988C	Vs.	CIT (Exemption), Pune
Appellant		Respondent

Assessee by : Shri Kishor B. Phadke
Revenue by : Shri Amol Khairnar

Date of hearing : 30.09.2024
Date of pronouncement : 30.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the two appeals filed by the assessee directed against the separate orders of the Id.CIT(Exemption), Pune dated 29.09.2022 and 22.08.2023 respectively denying grant of registration u/s.12A as well as approval u/s.80G(5) of the Income-tax Act, 1961 (hereinafter also called 'the Act').

2. At the outset, we find that the appeals are time barred by limitation by 188 days before the Tribunal. The appellant trust had filed an affidavit praying for condonation of delay on the ground that the trust was under bonafide belief that a fresh application in Form No.10AC could be filed after the rejection order passed by the CIT(Exemption). Further, the appellant trust appointed a new tax consultant who advised the trust to file appeal immediately. Therefore, the delay had occurred due to exchange of

files/records between the tax consultants and on account of unawareness of procedures/nitty-gritty of income-tax matters. The Id. DR had vehemently opposed the condonation of delay.

3. We have gone through the averments made in the petition for condonation of delay. It is trite law that, in the matters of condonation of delay, what is relevant is not the length of delay but whether there is 'sufficient cause' for the delay. In the present case, there is no material on record to disbelieve the averments made in the affidavit and keeping in view the salutary principle governing the condonation of delay that nobody gains out of delaying in filing the appeal, we are of the considered opinion that these are fit cases to condone the delay in order to advance substantial justice. Accordingly, we condone the delay of 188 days in filing the appeals before the Tribunal and admit the appeals for adjudication.

4. Brief facts of the appeal ITA No.902/PUN/2024 are that the appellant is a Trust, filed application in Form No.10AB dated 10.03.2023 seeking registration u/s.12A(1)(ac)(iii) of the Act. On receipt of the said application, the Id. CIT (Exemptions), in order to verify the genuineness of activities of the appellant trust, issued notice through ITBA portal on 11.07.2023 calling for certain information/clarification by 24.07.2023. The appellant trust did not furnish compliance to the said notice. The CIT(Exemption issued another notice dated 29.07.2023 requiring the appellant trust to submit its compliance on or before 07.08.2023. Both the notices were stated to have been served through e-portal and e-mail. However, for the reasons best known to it, the appellant trust could not comply with the said notice. In the circumstances, the Id. CIT(Exemptions) rejected the application filed by the appellant trust for grant of registration u/s.12AB by observing as under :

“3.3. It is clear from the above that the assessee was given sufficient opportunity to comply, but it had not complied to the same. It seems that the assessee is not having any supporting documents/evidence to submit. The assessee failed to comply with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961. Hence, the undersigned is unable to draw any satisfactory conclusion about genuineness of activities of the assessee and the compliance to the requirements of any other law for the time being in force by the trust/institution as are material for the purpose of achieving its objects. Therefore, the undersigned has left no alternative but to reject the application.

4. In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 23.09.2021 under section 12AB read with section 12A(1)(ac)(vi) of the Income Tax Act, 1961 is hereby cancelled.”

5. Being aggrieved, the appellant trust is in appeal before the Tribunal in the present appeal.

6. Before us, the ld. AR submits that the notice dt.29.07.2023 given by the ld. CIT(Exemption) to respond to the notice falls short of legal requirement of atleast giving 15 days time. Therefore, in the interest of justice, it is prayed for remanding the matter to the file of CIT(Exemption).

7. On the other hand, the ld. DR submits that the appellant trust did not comply with the notices issued through ITBA portal and e-mail despite giving ample opportunities. Therefore, the ld. CIT(Exemptions) was justified in rejecting the application by the appellant trust seeking registration u/s.12A of the Act.

8. We heard the rival submissions and perused the relevant material on record. In the instant case, the appellant trust filed application in Form No.10AB dated 10.03.2023 seeking registration u/s.12A(1)(ac)(iii) of the Act. The CIT(Exemptions) rejected the application filed by the appellant trust owing to non-compliance of the appellant trust to the notices issued through ITBA portal. Furthermore, on mere perusal of para no.2.1 of the

impugned order, it would reveal that CIT(Exemption) issued notice 29.07.2023 requiring the appellant trust to submit compliance on or before 07.08.2023, which is unreasonably a short period to comply with the hearing notice. Undisputedly, the time given to the appellant for compliance is less than a week, which is against the Standard Operative Procedure ('SOP') issued by the CBDT dated 19.11.2020, wherein, minimum period of 15 days is required to be given to the assessee to comply with notices u/s 142(1) from the date of issue of the notice. The Hon'ble Delhi High Court in the case of *Dauphin Travel Marketing Private Limited vs. ITO in W.P.(C) 8870/2023 & CM Nos.33516-17/2023 dated 05.07.2023* taking note of this SOP held that the grant of insufficient time to respond the notice violates the principles of natural justice and, therefore, set-aside the assessment. Thus, it is clear that the appellant was given unreasonably very short period of time to respond to the notice, which is against the principles of natural justice. In the light of the aforementioned facts, we are of the considered opinion that it is a fit case to remand the matter to the file of CIT(Exemptions) for *denovo* disposal of application of the appellant trust after affording due opportunity in accordance with law. Accordingly, the grounds of appeal filed by the appellant trust stands partly allowed for statistical purposes.

9. In the result, ITA No.902/PUN/2024 filed by the appellant trust is partly allowed for statistical purposes.

10. We find in ITA No.903/PUN/2024 the appellant trust filed application in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G on 10.03.2023. The Id. CIT(Exemptions), in order to verify the genuineness of activities of the trust issued notice through ITBA portal on 11.07.2023 calling for certain information/clarification, which the appellant trust could not comply with.

Another notice dated 29.07.2023 was issued requesting the appellant trust to comply with the notice on or before 07.08.2023. The appellant trust did not submit compliance. In the circumstances, the Id. CIT(Exemptions) denied grant of approval u/s.80G(5) of the Act.

11. Since the facts relating to service of notice and its compliance remain same, our finding given in ITA No.902/PUN/2024 remanding the matter to the file of Id. CIT(Exemptions) for *denovo* disposal of the application will hold good for this appeal as well.

12. In the result, ITA No.903/PUN/2024 filed by the appellant trust is partly allowed for statistical purposes.

13. To sum up, both the appeals filed by the appellant trust are partly allowed for statistical purposes.

Order pronounced on this 30th day of September, 2024.

sd/-
(S.S.GODARA)
JUDICIAL MEMBER

sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Pune / Dated : 30th September, 2024.
Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.