



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE 'B' BENCH, PUNE



BEFORE HON'BLE SMT ASTHA CHANDRA JUDICIAL MEMBER
AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1321/PUN/2024

Vikram Foundation

At Post: Naigaon,

Tal.: Sinnar, Dist.: Nashik-422102

PAN: AACTV5580G

.....अपीलार्थी / *Appellant*

V/s

The Commissioner of Income Tax

(Exemption), Pune

..... प्रत्यर्थी / *Respondent*

Appearances

Assessee by: Mr Satish Chavan ['Ld. AR']

Revenue by: Mr Ajaykumar Kesari ['Ld. DR']

Date of conclusive Hearing : 30/09/2024

Date of Pronouncement : 01/10/2024

ORDER

PER G. D.PADMAHSHALI, AM;

By present appeal, the assessee impugned the order of rejection passed u/s 12A(1)(ac)(vi) of the Act by the Commissioner of Income Tax (Exemption), Pune [for short 'CIT(E)'] vide DIN & order No. ITBA/EXM/F/EXM45/2024-25/1064085904(1) dt. 15/04/2024

2. We have heard rival parties; and subject to provisions of rule 18 of 'ITAT Rules', perused material placed on record and we note that, the appellant vide Form No. 10AB dt. 30/10/2023 filed an application to the respondent under clause (iii) of section 12A(1)(ac) of the Act thereby



seeking regular/final registration u/s 12AB of the Act. The appellant's effective failure to annexe required documents as contemplated u/r 17A(2)(k) of IT-Rules, the Ld. CIT(E) by notice dt. 11/01/2024 accorded an opportunity to make good the deficiency. In the event of failure vide further notice dt. 01/04/2024 one more opportunity was granted to cure the defects & remove the discrepancies notified. It was also informed by the registering authority that in the event of failure on the part of assessee to comply with the notices and resolve the discrepancies the application would be rejected and provisional registration granted to it on earlier occasion would be cancelled. In absence of compliance from the appellant assessee, the Ld. CIT(E) was constrained to reject to grant regular registration and cancel the provisional registration granted to appellant on 12/05/2022 u/s 12AB r.w.s. 12A(1)(ac)(vi) of the Act as he could not draw any satisfactory conclusion about genuineness of activities of the appellant and satisfaction over compliance of requirements of any other law for the time being in force as are material for the purpose of achieving its stated objective.

3. We note that, the statute empowers the registering authority to call any such documents or information so as to satisfy himself with twin prescriptions of section 12AB(1)(b)(i) of the Act viz; (A) genuineness of activities (B) Compliance with all applicable laws etc., and in order to draw conclusion over satisfaction the registering authority is duty bound to carry out wholesome & autonomous exercise according to nature/character of



charitable purpose *vis-a-vis* the applicant engaged into. In arriving to conclusion over satisfaction about the genuineness of activities and compliance of applicable law, the registration proceedings is expected to vouch predominantly; (i) whether applicant is a public charitable trust established in accordance with applicable law & in operation as such [Constitution/Establishment] (iii) whether all the entries of object clause are in consonance with the 'charitable purpose' as defined by section 2(15) of the Act [Objects] (iv) whether there exist any implied or express provision in the constitutional & other administrative documents/policies etc., entitling any right or power to the trust/trustee carry to engage (by itself or through agent/appointees) into any activities outside the ambit of registered objects [Rights/Power] (vi) whether all the activities and operation are strictly carried out in line with the registered objects of 'charitable in nature' [Activity] and finally (vii) whether it is compliant of all the applicable law in all respect and around the clock[Compliance]. Any proceedings culminated without vouching these former key factual (Corac) would *prima-facie* be deficient as it may lead to absurd conclusion.

4. In the instant case we find that, owing to absence of evidential documents and failure on the part of appellant to cure all the notified deficiencies it constrained the Ld. CIT(E) to culminate the impugned registration proceedings without former wholesome & autonomous exercise. We also note that, vide notice 01/04/2024 the appellant was



accorded only seven days to cure the defects & explain the discrepancies. The notice requiring appellant to comply allowing less than a reasonable period of fifteen days in our considered view suggest denial of real opportunity, hence violative of principle of natural justice. While holding so we place on reliance on 'Smt. Ritu Devi v. CIT' [2004, 141 Taxman 559 (Mad.)] wherein their Hon'ble lordships have held that, time of just few days was given to the assessee to furnish reply which was also held as denial of real opportunity as it was just a paper opportunity.

5. On the other hand, the reasons behind non-compliance as explained in our considered view are sufficient for setting aside the rejection which the Ld. DR could hardly object. In view hereof, without commenting on merits we set-aside the impugned rejection and cancellation of provisional registration, and consequently remit the matter back to the file of Ld. CIT(E) at the stage of issuance of notice dt. 01/04/2024 for *de-novo* consideration in accordance with law after giving three effective opportunities to the appellant assessee.

6. The appeal in result is ALLOWED FOR STATISTCIAL PURPOSES.

U/r 34 of ITAT Rules, order pronounced in open court on this Tuesday, 01st day of October, 2024.

-S/d-

**ASTHA CHANDRA
JUDICIAL MEMBER**

पुणे / PUNE; दिनांक / Dated : 01st day of October, 2024.

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.

4. The CIT-Concerned(MH-India)

2. प्रत्यर्थी / The Respondent.

5. DR, ITAT, Bench 'B', Pune

-S/d-

**G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

3. The Pr.CIT(Exemption),Pune

6.गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठनिजीसचिव / Sr. Private Secretary

आयकरअपीलीयन्यायाधिकरण, पुणे / ITAT, Pune.