

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
&
DR. MANISH BORAD, ACCOUNTANT MEMBER

I.T.A. No. 1478/KOL/2024
Assessment Year: 2024-25

Mondal Bagan Milani Sangha, Hooghly Moran Road, Gondalpara, Chandannagar, Hoogly-712137 West Bengal PAN No. AAFAM1384F	Vs	The ITO, Ward 24(1), Hooghly, Roopma mahal, Khadina More, Station Road, Chinsurah-712102 West Bengal
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Indranil Banerjee, FCA
Revenue by :	Shri Subhendu Datta, CIT DR

सुनवाई की तारीख/Date of Hearing	:	25.09.2024
घोषणा की तारीख/Date of Pronouncement	:	04.10.2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeal filed by the assessee, pertaining to assessment year 2024-25 is directed against the order passed by the Learned Commissioner of Income Tax (Exemption) Kolkata (hereinafter referred to as the 'Id. CIT(E)') dated 23rd November, 2023.

2. Assessee filed the application for condonation of delay and perusal of the same indicates that the tax consultant who was

given the access to the email failed to inform the entity about the notices of hearing and the ld. CIT (Exemption) dismissed the assessee's appeal due to which the assessee was neither able to give reply within the time allowed in such notices nor was able to prefer an appeal against the order of CIT (Exemption) within the prescribed time limit. We therefore, considering the reasonable cause mentioned in the condonation application and also taking guidance from the judgment of Hon'ble Apex Court in case of *N. Balakrishnan vs M. Krishnamurthy on 3 September, 1998 (1998) 7 SSC 123* and in the in the case of *Collector, Land Acquisition Vs. MST. Katiji & Ors., (1987) 167 ITR 471 (SC)*, condone the delay and admit the appeal for adjudication on merits.

3. At the outset, the ld. counsel for the assessee submitted that the application on Form no.10AB of the Act filed for the registration u/s 12A(1)(ac)(iii) has been rejected in *limine* by CIT (E). He therefore, prayed that the matter may be restored to the file of the CIT (E) offering one more opportunity to the assessee.

4. On the other hand, the ld. DR was fair enough in not opposing the request made by the ld. counsel for the assessee.

5. We have heard the rival contentions and placed the records placed before us. We observe that the assessee is a charitable organization working with the object of relief to poor, medical relief and charitable activity in the field of education. The assessee enjoys his provisional registration granted vide provisional approval order dated 9th July, 2021 for the period of A.Y. 2021-22 to A.Y. 2023-24. We also observe that the assessee filed an application on form 10B for registration u/s 12AB(i)(b)(ii) of the Act. However, ld. CIT (E) dismissed the application for registration u/s 12A(i)(AC)(3) of the Act in *limine* for non-appearance / non-

communication from the assessee's side on the date fixed for hearing.

6. We observe that the assessee which is a charitable organization has filed the income tax returns and also getting the books of accounts audited. Audit reports dated 31.03.2021, 31.03.2022, 31.03.2023, has been furnished on the income tax portal. Considering the genuine hardship faced by the assessee on account of mis-communication/ no-communication from the tax consultant, looking after the taxation matters, we in the interest of justice and being fair to both the parties, restore the issue back to the file of Id. CIT(E), directing him to admit the assessee's application on Form 10AB for registration u/s 12A(i)(ac)(3) of the Act and after offering reasonable opportunity to the assessee to file relevant detail, shall decide the issue in accordance with law and grant the registration if the assessee is otherwise found to be eligible. Also assessee is directed to remain compliant. Grounds of appeal raised by the assessee are allowed for statistical purpose.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 4th October, 2024 at Kolkata.

Sd/(RAJPAL YADAV)
VICE PRESIDENT

Sd/(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 04th October, 2024

**SS, Sr.Ps*



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata