

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. PRASHANT MAHARSHI, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 925/MUM/2024 (A.Y: 2023-24)**

Bima Paathshala
603, Western Edge I, Western
Express Highway, Above Metro
Wholesale Mall, Magathane,
Borivali, East, Mumbai – 400066.
PAN: AAETB1448B

(Appellant)

Vs. Commissioner of Income Tax
(Exemption)
Room No. 601, 6th Floor,
Cumballa Hill MTNL TE
Building, Peddar Road, Dr.
Gopalrao Deshmukh Marg,
Cumballa Hill, Mumbai –
400026.

(Respondent)

Assessee Represented by : Shri. Apurv Gandhi
Department Represented by : Shri. S. Srinivasu CIT DR
Date of conclusion of Hearing : 30.07.2024
Date of Pronouncement : 14.10.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the assessee against the order dated 09.02.2024 of ITBA/EXM/F/EXM45/2023-24/1060741368(1), CIT (Exemptions), Mumbai [hereinafter referred to as the “*CIT(Exemptions)*”], passed under



section 250 of the Income Tax Act, 1961 [hereinafter referred to as “*the Act*”] for the A.Y. 2023-24, wherein application in form 10AB seeking registration u/s. 12AB of the Act was dismissed due to non-compliance of the term of the notice issued to the assessee.

2. Aggrieved by the impugned order of rejection, the assessee is in appeal before us and has raised following grounds of appeal.

1. *“On the facts and in the circumstances of the case and in law, the learned AO erred in rejecting the application for grant of registration under Section 12AB of the income Tax Act, 1961 [the Act] without giving proper opportunity of being heard which is against the principle of natural justice.*
2. *On the facts and in the circumstances of the case and in law, the learned AD erred in not referring to the details submitted by the appellant vide email dated 22.01.2024. The appellant prays that it had complied with the notices and had submitted all the required details via email within the prescribed time limit. However, the learned AD erred in not considering the same while passing the above impugned order.*
3. *On the facts and in the circumstances of the case and in law, the learned AO erred in rejecting the appellant's application for grant of registration under Section 12AB of the Act even though the objects of the Trust are in compliance with the statute, and there are no violations in the activities of the Trust.”*

3. We have heard the Ld. AR on behalf of the assessee and Ld. DR on behalf of the department. The only question to be determined at this stage by us is whether the principal of natural justice has been followed by the Ld. CIT



(Exemption) or the Ld. CIT (Exemption) has passed the reasoned order which he otherwise was duty bound to do? The impugned order reads as under: -

1. *“M/s Bima Paathshala (hereinafter 'the assessee' or 'the applicant) filed an application in Form 10AB seeking registration under section 12AB of the Act.*
2. *The relevant procedural mandate is governed by the provisions of Rule 17A of the IT Rules, which is titled "Application for registration of charitable or religious trusts, etc.". The sub rule (2) of Rule 17A mandates that the application in Form 10AB is to be accompanied by specific documents, and the same is reproduced as under.*

"(2) The application under sub-rule (1) shall be accompanied by the following documents, as required by Form No. 10A or 10AB, as the case may be, namely:-

- (a) Where the applicant is created, or established, under an instrument, self-certified copy of such instrument creating or establishing the applicant;*
- (b) Where the applicant is created, or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;*
- (c) Self- certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;*
- (d) Self-certified copy of registration under Foreign Contribution(Regulation) Act, 2010 (42 of 2010), if the applicant is registered under such Act;*



- (e) *Self- certified copy of existing order granting registration under section 12A or section 12AA or section 12AB, as the case may be:*
- (f) *Self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA or section 12AB, as the case may be, if any:*
- (g) *Where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;*
- (h) *Where a business undertaking is held by the applicant as per the provisions of sub-section (4) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self- certified copies of the annual accounts of such business undertaking relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self certified copy of the report of audit as per the provisions of section 44AB for such period.*
- (i) *Where the income of the applicant includes profits and gains of business as per the provisions of sub-section (4A) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self- certified copies of the annual accounts of such business relating to such prior year or years (not being more than three years immediately preceding the year in which*



the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period.

(j) Note on the activities of the applicant."

- 3. On verification of the application in Form 10AB filed by the assessee, it was found that the application was not complete, and all the documents required to be accompanying the application were not furnished. Hence, a notice was issued to the applicant vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1058714847(1) dated 13.12.2023 requesting the assessee to furnish the complete set of documents mentioned in Rule 17A(2), A reminder notice was also issued vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1060060684(1) dated 24.01.2024.*
- 4. The Applicant has made no compliance to the terms of the above notices. Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. In the absence of necessary compliance by the Applicant, I am unable to arrive at a satisfaction on these parameters. As such, in view of the statutory limitation to decide on the application on or before 31.03.2024, I am left with no other option but to reject the application seeking registration under section 12AB of the Act.*
- 5. In conclusion, this application for grant of registration stands rejected."*

4. It is thus evident from the impugned order extracted above, the Ld. CIT (Exemption) has dismissed the application of the applicant on that ground that application was not complete, and all the documents required



to be accompanying the application were not furnished and the show cause notice dated 13.12.2023 was issued and also a reminder notice dated 24.01.2024 but the assessee has not made compliance to the term of the said notices. Therefore, the application was held not maintainable and was rejected.

5. It is the case of the assessee that they complied with the notices and had submitted all the required documents via email within the prescribed time limit. In these facts and circumstances, we are of the considered opinion that the Ld. CIT (Exemption) has dismissed the application without following the principal of natural justice as in the given facts and circumstances, the assessee/applicant was required to be heard.
6. In the given facts and circumstances, we are of the considered opinion that the assessee needs to be given one more opportunity for presenting its case before the Ld. CIT (Exemption). The impugned order is accordingly set aside with the direction to the Ld. CIT (Exemption) to give more opportunity to the applicant for presenting its case effectively and to decide the case afresh.
7. The matter is accordingly restored to the file of the Ld. CIT (Exemption).



8. In the result, appeal filed by the assessee is allowed for statistical purposes in the above terms.

Order pronounced in the open court on 14.10.2024

Sd/-
(PRASHANT MAHARSHI)
(ACCOUNTANT MEMBER)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Mumbai / Dated 14.10.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai