

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.1229/PUN/2024

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| Indus Foundation C/o Malpani House, Indira Gandhi Road, Sangamner, Ahmednagar – 422605 PAN: AAATI9852K (Appellant) | Vs. | CIT (Exemption), Pune (Respondent) |
|---|------------|--|

Assessee by : Shri Nikhil S Pathak
Department by : Shri Amol Khairnar, CIT-DR
Date of hearing : 24-09-2024
Date of pronouncement : 16-10-2024

ORDER

PER R.K. PANDA, VP :

This appeal filed by the assessee is directed against the order dated 11.03.2024 of the CIT Exemption, Pune rejecting the application for grant of registration u/s 12A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and also cancelling the provisional registration granted earlier.

2. Facts of the case in brief, are that the assessee filed an application in Form No.10AB under clause (iii) of section 12A(1)(ac) of the Act on 05.09.2023. In order to verify the genuineness of the activities of the assessee trust and 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, a notice

was issued by the CIT(E) through ITBA portal on 07.11.2023 requesting the assessee to upload certain information / clarification as per para 2 of his order. Although the notice was duly served on the assessee, however, the assessee did not furnish any explanation / submission for which, the CIT (Exemption) rejected the application for grant of registration u/s 12A of the Act and also cancelled the provisional registration granted earlier by observing as under:

“2.3 The assessee was requested to show cause as to why the application should not be rejected and why the registration granted under section 12AB of the Income Tax Act, 1961 should not be cancelled. The assessee was also given opportunity of being heard vide the said notice. The assessee was specifically informed that in the event of failure to comply by the due date, the application shall be liable to be rejected and the registration shall also be liable to be cancelled. The compliance to the said notice was due on 05/03/2024. The notice was duly served on the assessee through e-portal and email. However, the assessee neither submitted explanation to the show cause notice till date nor availed the opportunity of being heard.

3 Since, the assessee has not furnished any explanation to the discrepancies communicated to it, it is presumed that the assessee has nothing to say in the matter.

4. Considering the above facts discussed in the show notice and discrepancies noticed and also that the assessee has not complied with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 as well as the provisions of Rule 17A(2) of Income Tax Rules, 1962 in spite giving sufficient opportunities, the undersigned is unable to draw any satisfactory conclusion about the genuineness of activities of the assessee and compliance of requirements of any other law for the time being in force by the assessee as are material for the purpose of achieving its objects.

5. In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 07/04/2023 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled.”

3. Aggrieved with such order of the CIT(Exemption), the assessee is in appeal before the Tribunal by raising the following grounds:

The following grounds are taken without prejudice to each other -

On facts and in law,

- 1] *The learned CIT (E) erred in rejecting the application made by the assessee under clause (iii) of section 12A (1) (ac) for registration of the trust.*
- 2] *The learned CIT (E) erred in holding that in the absence of credible evidences furnished by the assessee, he was not satisfied with the genuineness of the activities carried out by the assessee and hence, the application filed by the assessee was required to be rejected.*
- 3] *The assessee submits that it had filed an adjournment letter requesting for additional time to submit its reply to the notice dated 27.02.2024 issued by learned CIT (E), however, the learned CIT (E) has rejected the application filed by the assessee for not furnishing the information called for by him and accordingly, the assessee requests for one more opportunity to present its case before learned CIT (E).*
- 4] *The learned CIT (E) failed to appreciate that the assessee had commenced its charitable activities and had submitted various evidences to prove that the activities were carried out in accordance with the objects of the trust and hence, there was no reason to reject the application for approval w/s 12AA of the Act.*
- 5] *The assessee requests for the addition of additional evidences in order to support its case regarding various charitable activities carried out by it and accordingly, submits that the activities carried out are genuine and the learned CIT (E) has erred in rejecting the application for approval under clause (iii) of section 12A(1)(ac).*
- 6] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.*

4. The Ld. Counsel for the assessee submitted that sufficient opportunity was not granted to the assessee for making the submission before the CIT(Exemption). He submitted that since the CIT(Exemption) has called for various details. The assessee could not compile these within a short time for which, the assessee has filed an adjournment application. However, the CIT(Exemption) without granting any adjournment to the assessee, has passed the order rejecting the application for grant of registration and also cancelled the provisional registration granted earlier.

He submitted that in the interest of justice, the assessee should be given one more opportunity to substantiate its case by filing the requisite details / documents.

5. The Ld. DR on the other hand strongly supported the order of the CIT(Exemption). He submitted that despite number of opportunities granted by the CIT(Exemption), the assessee failed to submit the requisite details for which the CIT(Exemption) was constrained to pass such an order and therefore, no more opportunity is required to be given to the assessee and the order of the CIT(Exemption) should be upheld.

6. We have heard the rival arguments made by both the sides and perused the record. We find due to non-submission of the requisite details as called for by him, the CIT(Exemption) passed the order rejecting the application for grant of registration u/s 12A of the Act and also cancelling the provisional registration granted earlier. It is the submission of the Ld. Counsel for the assessee that given an opportunity, the assessee is in a position to file the requisite details as called for by the CIT(Exemption). Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(Exemption) with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(Exemption) on the appointed date and file the requisite details without seeking any adjournment under any pretext, failing which the CIT(Exemption) is at liberty to

pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 16th October, 2024.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 16th October, 2024
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. DR, ITAT, 'A' Bench, Pune
4. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

| S.No. | Details | Date | Initials | Designation |
|-------|--|------------|----------|-------------|
| 1 | Draft dictated on | 08.10.2024 | | Sr. PS/PS |
| 2 | Draft placed before author | 09.10.2024 | | Sr. PS/PS |
| 3 | Draft proposed & placed before the Second Member | | | JM/AM |
| 4 | Draft discussed/approved by Second Member | | | AM/AM |
| 5 | Approved Draft comes to the Sr. PS/PS | | | Sr. PS/PS |
| 6 | Kept for pronouncement on | | | Sr. PS/PS |
| 7 | Date of uploading of Order | | | Sr. PS/PS |
| 8 | File sent to Bench Clerk | | | Sr. PS/PS |
| 9 | Date on which the file goes to the Head Clerk | | | |
| 10 | Date on which file goes to the A.R. | | | |
| 11 | Date of Dispatch of order | | | |