

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 1607/MUM/2024
(Assessment Year: 2023-24)**

Grameen First Development Foundation

108, Bldg. No.A2, Phase I – Green Glade,
Abachapada, Devkhop Villa Ge,
Palghar, Thane – 401404.
Maharashtra
[PAN: AAJCG0602J]

..... **Appellant**

Exemption Ward, Thane,
Quereshi Mansion, Thane-400602.
Maharashtra

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Paras Munot
For the Respondent/Department : Shri Pushkraj Bhange Patil

Date

Conclusion of hearing : 18.10.2024
Pronouncement of order : 24.10.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 29/06/2023, passed by the Learned Commissioner of Income Tax, Exemption, Pune [hereinafter referred to as 'the **CIT(E)**'] whereby the application filed by the Appellant in Form No.10AB filed under Section 12A(1)(ac)(iii) of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] was rejected and provisional registration granted under Section 12AB read with Section 12A(1)(ac)(vi) of the Act was also cancelled.

2. The Appellant has raised following the grounds of appeal:

"1. *The Ld. Assessing Officer has erred in law and in fact in*

rejecting the application filed u/s. section 12A(ac)(iii) of the Act without providing an opportunity of being heard in the matter dues to technical error.

3. Thus the grievance of the Appellant is that the learned CIT(E) did not provide opportunity of being heard in the matter due to technical error.
4. On perusal of record we find that there was a delay of 219 days in filing the appeal. The Appellant has requested for condonation of delay by filing an application stating that the delay was caused since the Appellant did not have knowledge of the order passed by the CIT(E) due to inactive Email-ID. The learned Departmental Representative appearing before us submitted that the delay in appeal does not have any sufficient cause and, therefore, it should not be admitted.
5. We have heard the Learned Departmental Representative and carefully perused the material on record. We find that the order impugned was passed on 29/06/2023. However, as stated in the application seeking condonation of delay the Appellant could not receive the same due to the inactive status of email registered on the Income Tax Business Application (ITBA) portal. The Appellant filed the appeal on getting knowledge of impugned order subsequently and the appeal was filed on 03/04/2024. The Revenue has not disputed the contention of the Appellant that the Email-ID registered with the ITBA portal was inactive, and therefore, due to this glitches issue the Appellant could not receive the order impugned and file the appeal in the prescribed time. As soon as the Appellant got knowledge of the order having been passed by the CIT(E), the Appellant paid the appeal fees on 29/03/2024, and filed appeal which was taken up by the registry on 03/04/2024. In the case of **Collector of Land Acquisition Vs. Mst. Katiji & others AIR 1987 1353 (SC)** the Hon'ble Supreme Court has, while dealing

with the issue of condonation of delay, emphasized that substantial justice should prevail over technical considerations. Every day's delay must be explained does not mean that a pedantic approach should be taken and that the aforesaid doctrine must be applied in a rational common sense manner; more so, in circumstances where a litigant does not stand to benefit by lodging the appeal late (as is the case in appeal before us). The bonafides of the explanation offered by the Appellant are not under doubt. Therefore, we condone the delay and admit the appeal.

6. On perusal of record we note that the Appellant had filed an application before the Learned CIT(E) in Form No.10AB of the Act for seeking registration under Section 12A/12AB of the Act. The Appellant could not submit the required details called for by the CIT(E) as per notice dated 13/03/2023. On perusal of material on record, the CIT(E) formed a view that out of the total receipts of INR.11,09,000/-, the receipts from donation were only INR.75,000/- and the other receipts were from the commercial activities. Since the Appellant was carrying activities of 'general public utility', as per decision of the Hon'ble Supreme Court in the case of ACIT (Exemptions) Vs Ahmadabad Urban Development Authority: [2002] 143 Taxmann.com 278 (SC) the Appellant's application could not be accepted. In view of the discrepancies found by the CIT(E), the Appellant issued another notice, dated 20/06/2023, to the Appellant giving time till 26/06/2023 to comply with the same. The aforesaid notice was also not complied. Therefore, the CIT(E) rejected the application and canceled the provisional registration. Hence, the present appeal.
7. The grievance of the Appellant is that the Appellant has not been able to present his case before the CIT(E) as the Email-ID of the Appellant was inactive and therefore, such notice issued could not be replied to. Given the overall facts and circumstances of the case, and

keeping in view substantial interest of justice, we deem it appropriate to grant another opportunity to the Appellant to present his case before the CIT(E) for grant of registration. Accordingly, the order dated 29/06/2023 passed by the CIT(E) is set aside with the directions to decide the application afresh after granting the appellant a reasonable opportunity of being heard. The Appellant is directed to take steps to activate the email ID or update the Email ID registered with the ITBA Portal to ensure that the notices are received by the Appellant. The Appellant is also directed to track the proceedings over ITBA portal. It is clarified that in case the Appellant fails to enter appearance before the CIT(E) or fails to file relevant documents/details to support his claim, the CIT(E) would be at liberty to dispose off the application on the basis of material on record. In terms of the aforesaid the Ground No.1 raised by the Appellant is allowed for statistical purposes. Our aforesaid view draws strength from the decision of the Tribunal in the case of the Appellant [ITA No.1608/Mum/2024, dated 23/08/2024] whereby in identical facts and circumstances order passed by the CIT(E) rejecting application files by the Appellant for registration under Section 80G of the Act was set aside by the Tribunal with the directions to decide the application afresh after considering the explanation offered by the Appellant.

8. In result, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 24.10.2024.

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 24.10.2024
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai