

आयकर अपीलुय अधलकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI MANJUNATHA .G, HON'BLE ACCOUNTNT MEMBER
&
SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER

आ.अपी.सं / ITA No. 858/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2024-25)

Seven Hills Educational
Society,
Hyderabad.
[PAN : AACTS0528H]

Income Tax Officer (Exemptions),
Vs. Ward-1(4),
Hyderabad.

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri A V Raghuram, AR
राजस्व द्वारा/Revenue by: Shri Shiva Sewak, CIT-DR

सुनवाई की तारीख/Date of hearing: 29/10/2024
घोषणा की तारीख/Pronouncement on: 21/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 04/07/2024 passed by the learned Commissioner of Income Tax (Exemption)-Hyderabad ("Ld. CIT(E)"), in the case of Seven Hills Educational Society ("the assessee"), assessee preferred this appeal.

2. Brief facts of the case are that the assessee trust obtained registration under section 12A of the Income Tax Act, 1961 ('the Act') by order dated 22/08/2002. Subsequently on 20/06/2023, the assessee was granted provisional registration under 12A(1)(ac)(vi) of the Act in form No. 10AC. Again on 13/06/2023, the assessee applied in Form 10AB of the Act. Thereafter, the assessee made an application under section 12A(1)(ac) of the Act by selecting the code (vi) instead of (i).

3. Learned CIT(E) observed that on an earlier occasion, the assessee applied under 12A(1)(ac)(vi) of the Act instead of 12A(1)(ac)(i) of the Act, since the assessee holds registration under section 12A of the Act, issued on 22/06/2002. Assessee did not responded to the notice dated 18/05/2024 issued by the learned CIT(E) informing the assessee of the Circular No. 7/2024, dated 25/04/2024 extending the date upto 30/06/2024 for the assesseees who mistakenly filed application under wrong clause.

4. Learned CIT(E) therefore rejected the application filed in Form 10AB for regular registration under section 12AB of the Act, holding it to be infructuous and barred by limitation. Hence, the assessee filed this appeal.

5. Learned AR submitted that there was sheer mistake in selecting a wrong code, namely, "02-Sub-clause (vi) of clause (ac) of sub-section (1) of Section 12A" instead of section code 12A(1)(ac)(i) of the Act, and the assessee does not stand to gain by such mistake and, therefore, the mistake may be condoned and learned CIT(E) may be directed to grant regular registration.

6. Basing on the orders of the learned CIT(E), learned DR argued that due date for filing Form 10A for existing registered entities under section 12A of the Act was over by 31/03/2022, but the same was extended subsequently from time to time by the CBDT up to 30/06/2024 and the learned CIT(E) has no jurisdiction to condone the delay and, therefore, the assessee cannot ask the learned CIT(E) to do what he cannot do.

Learned DR submitted that even coming to the aspect of bonafide mistake, if it is really a bonafide mistake, the assessee would not have waited for two years to bring it to the notice of the Revenue authorities and get the mistake rectified. He submitted that there are no bonafides, hence the appeal may be dismissed.

7. We have gone through the record in the light of the submissions made on either side. Vide order dated 22/08/2002, the assessee got registration under section 12A of the Act. Subsequently on 13/06/2023, the assessee made an application in Form 10AB for regular registration.

8. Under section 12A(1)(ac) of the Act, having registered under section 12A of the Act, the assessee was expected to make an application under Form 10A under section 12A(1)(ac)(i) of the Act by selecting relevant section code as 02-Sub clause (i) of clause (ac) of sub-section (1) of section 12A of the Act. Learned AR, however submits that the assessee wrongly selected the section code as 02-Sub clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act instead of clause (i) of clause (ac) of sub-section (1).

9. When the assessee applied on 13/06/2023 in Form 10AB for regular registration, the learned CIT(E) noticed that on an earlier occasion, the assessee applied under 12A(1)(ac)(vi) of the Act instead of 12A(1)(ac)(i) of the Act, since the assessee holds registration under section 12A of the Act, issued on 22/08/2002. Assessee failed to respond to such notices.

10. Learned CIT(E) observed that the due date for filing Form 10A for existing registered entities under section 12A of the Act has been extended from time to time for those who failed to file application or filed the application opting wrong section code in Form 10A before the due date, and finally vide Circular No. 7/2024 dated 25/04/2024, CBDT extended the date up to 30/06/2024.

11. It is an undisputed fact that, having possessed the registration under section 12A of the Act, the assessee was supposed to make an application under section 12A(1)(ac)(i) of the Act in which event, the assessee had to submit the application in Form 10A vide Rule 17A of the Income Tax Rules, 1962 (“the Rules”). If the assessee applying by selecting the wrong section code as 02-Sub clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act was a mistake, still it is a mistake on 13/06/2023 also by applying for registration in Form 10AB. If really the assessee wanted to apply under 02-Sub clause (i) of clause (ac) of sub-section (1) of section 12A of the Act on any occasion, the proper form was not Form 10AB, but it should be Form 10A only. Form 10AB is applicable for the section code of 02-Sub clause (ii) or (iii) or (iv) or (v) of clause (ac) of sub-section (1) of section 12A of the Act, whereas for section code 02-Sub clause (i) or (vi) of clause (ac) of sub-section (1) of section 12A of the Act, the application shall be in Form 10A only.

12. Be that as it may, the fact remains that the assessee did not avail the opportunity of extension of time for filing application in Form 10A, if really its intention is to apply for 02-Sub clause (i) of clause (ac) of sub-section (1) of section 12A of the Act, by bringing the mistake to the notice of the authorities, since the assessee holds the registration under section 12A of the Act. When the CBDT took cognizance of the matter and by way of circulars extended the due date for filing Form 10A, it cannot be said that the learned CIT(E) can exercise jurisdiction to condone the delay in applying the Form 10A on the ground of mistake, because the time extended for such purpose by the CBDT expired by 30/06/2024. In these circumstances, we do not find anything illegality or irregularity in the rejection of application by the learned CIT(E).

13. Now coming to the practical aspect of hardship that has befallen on the assessee, the fact remains that finally vide Circular No.7/2024 dated 25/04/2024, CBDT extended the date up to 30/06/2024, whereas the assessee filed Form 10A by 13/06/2023. Assessee filed another application on 30/06/2024 in Form 10AB by that date. Though in a wrong

Form, the request of the assessee was pending before the due date. In this peculiarity of the circumstances, we deem it just and proper to condone the mistake committed by the assessee while applying registration by making a selection of wrong section code, namely, 02-Sub clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act instead of 02-Sub clause (i) of clause (ac) of sub-section (1) of section 12A of the Act. We accordingly condone such a mistake. Learned CIT(E) will proceed to hear and dispose the request of the assessee by allowing it to apply now under Form 10A. Grounds are allowed.

14. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 21st day of November, 2024.

Sd/-
(MANJUNATHA .G)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 21/11/2024
OKK

Copy forwarded to:

1. Seven Hills Educational Society, Plot No. 153, Mothi Nagar, Balanagar, Erragadda, Hyderabad, Telangana-500018.
2. The ITO (Exemptions), Ward-1(4), Aayakar Bhavan, Basheerbagh, Hyderabad, Telangana – 500004.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD