

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"F" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.5186/MUM/2024**

**Jeevan Samaj Trust**

Flat No. B/15, Vinay Guru  
CHS Saraswat Colony,  
Dombivalie,  
Maharashtra - 421201  
PAN: AADTJ7610G

..... Appellant

v/s

**ITO, Ward (exemption)**

Thane,  
Maharashtra

..... Respondent

Assessee by : Shri Tushar Kochale

Revenue by : Shri Yogesh Kamat, CIT-DR

Date of Hearing – 11/11/2024

Date of Order - 22/11/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

1. The present appeal has been filed by the assessee challenging the impugned order dated 04/03/2024 passed by the learned Commissioner of Income Tax (Exemptions), Pune [*learned CIT(E)*] in Form 10AD rejecting the application filed by the assessee in Form 10AB for seeking registration under section 12AA of the Income Tax Act, 1961 (*the Act*).

2. The present appeal is filed after a delay of 153 days. Along with the present appeal, the assessee has filed an application seeking condonation of

delay in filing the present appeal. As per the assessee, the impugned order was received electronically by the assessee on 04/03/2024. However, due to a medical emergency in the family, necessary steps could not be taken to file the appeal against the impugned order. In the aforementioned application, the assessee also submitted that from 19/02/2024 till 12/03/2024, the Chief Trustee of the assessee was in the USA to attend some professional conference. Accordingly, the assessee submitted that the delay of 153 days in filing the present appeal is not intentional. The submissions made by the assessee in its application seeking condonation of delay in filing the present appeal are reproduced as follows: –

*"1) The appellant is a Public Charitable Trust duly registered under the Maharashtra Public Trust Act, 1950, vide Registration Certificate dated 02.11.2020, bearing No. E - 12090/Thane, issued by Assistant Charity Commissioner, Thane Region, Thane. A copy of Registration Certificate issued by Asst. Charity Commissioner, Thane Region, Thane to Appellant is enclosed herewith as EXHIBIT - A.*

*2) The Appellant has filed above Appeal challenging order dated 04.03.2024 passed by the Respondent - C.I.T (Exemption), Pune, whereby, the Respondent has rejected Application No. CIT EXEMPTION, PUNE/2023-24/12AA/12965 made by the Appellant under clause (ili) of Section 12A (1) (ac) of the Income Tax Act, 1961 and has also cancelled Appellant's Provisional Registration Certificate dated 25.03.2022 us 12AB read with Section 12A (1) (ac) (vi) of the Income Tax Act, 1961.*

*3) Applicant repeats, reiterate and reaffirms the contents of above Appeal and craves leave of this Hon'ble Tribunal to treat the same as if reproduced herein verbatim.*

*4) The impugned Order was received electronically by the Appellant on 04.03.2024.*

*5) The Chief Trustee of the Appellant, Mr. Lancy Fernandes was having medical emergency in his family, where, his son Mr. Joel Fernandes volunteered to donate his liver to his aunt Mrs. Rita D'souza, who has been suffering from cryptogenic chronic liver disease which was at serious stage since past six months. Thus, after rigorous search for the suitable donor, said Mr. Joel Fernandes volunteered as donor in view of medical emergency, and actual medical procedures for said liver donation and its transplant commenced since 01.08.2024. Surgery was done on Mr. Joel Fernandes on 15.08.2024 at Jaslok Hospital, Mumbai and he was discharged on 21.08.2024 with 6 weeks rest and care. Thus, said Mr. Lancy Fernandes with his relatives were busy in searching of a donor as well as taking*

decision of said Mr. Joel Fernandes to be the donor, etc., actual surgery on Mr. Joel for donating his liver and his post discharge treatment and care. Therefore, steps could not be taken to challenge the impugned order after 04.02.2024 till said medical emergency was settled. The Appellant - Trust has preferred separate application seeking condonation of delay of around 153 days in filing present Appeal. Collectively true and correct copies of medical papers of Appellant's Chief Trustee's Son Mr. Joel Fernandes are enclosed herewith as EXHIBIT - B (Colly).

6) That Mr. Lancy Thomas Fernandes, Chief Trustee of the Appellant, was in the United States of America (USA) from 19.02.2024 till 12.03.2024, to attend Felicitation for Doctorate of Ministry: Master Craftsman, by Biblical Institute of Leadership Development, Ames Iowa, USA. Thus, Appellant had made adjournment Application to the Respondent - CIT on 28.02.2024 which was not considered by the Respondent. Copy of screenshot of Income Tax Portal showing adjournment request dated 28.02.2024 is enclosed herewith as EXHIBIT - C. Appellant craves leave to refer to and rely on the copies of Flight Tickets of Mr. Lancy Thomas Fernandes the Chief Trustee of the Appellant, to and fro U.S.A., as and when required and produced. Copy of Certificate granted by Biblical Institute of Leadership Development to the Chief Trustee of the Appellant is enclosed herewith as EXHIBIT - D.

7) Thus, after medical emergency in Chief Trustee's family settled down, he gather documents and provided it to his Advocate to challenge the impugned order. Thus, there is an inadvertent delay of 153 days in filing the Appeal.

8) Appellant states that, Appellant's valuable statutory and civil rights have been violated by the impugned Order. Applicant states that, he has not gained any undue advantage or benefit due to this delay which is occurred inadvertently and not deliberately in filing of the Appeal. Said delay has been caused inadvertently due to above stated reasons and not intentionally. No prejudice would be caused to the Respondents, if the delay would be condoned, whereas, grave prejudice would be caused to the Appellant, if the delay is not condoned, as Appellant's statutory and civil rights would be violated. Appellant states that, the Appeal has good merits and the Appellant is likely to be succeeded. Appellant states that, if the delay is not condoned irreparable loss, harm and prejudice would be caused to the Appellant which cannot be compensated in terms of money. Thus, said delay is required to be condoned and the Appeal is required to be heard on merits. The balance of convenience lies in favour of the Applicant.

9) Applicant states that, in the interest of justice the Appeal of the Applicant is required to be heard on merits by this Hon'ble Tribunal. Therefore, the delay of 153 days in filing of the Appeal, occurred inadvertently and not intentionally may please be condoned."

3. We find that the reasons stated by the assessee for seeking condonation of delay fall within the parameters for grant of condonation laid down by the Hon'ble Supreme Court in the case of Collector Land Acquisition, Anantnag Vs. MST Katiji and others: 1987 SCR (2) 387. It is well established that rules of procedure are handmaid of justice. When

substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. In the present case, the assessee did not stand to benefit from the late filing of the appeal. In view of the above and having perused the application, we are of the considered view that there exists sufficient cause for not filing the present appeal within the limitation period and therefore, we condone the delay in filing the appeal by the assessee and we proceed to decide the appeal on merits.

4. During the hearing, by referring to the impugned order, the learned Authorised Representative ("*learned AR*") submitted that Provisional Certificate under section 12AA of the Act was issued to the assessee on 25/03/2022 and accordingly assessee filed its application under section 12A(1)(ac) of the Act for Final Certificate before the learned CIT(E) in Form 10AB. The learned AR submitted that notice was issued through ITBA portal on 01/12/2023 requesting the assessee to upload certain information, which was duly responded to by the assessee, as noted in the impugned order on page 7 para 2.2. Thereafter notice was issued to the assessee on 22/02/2024 requiring further details from the assessee. As per the learned AR, the compliance to the said notice was due on 29/02/2024 and since certain additional information was sought vide aforesaid notice, therefore the assessee requested for adjournment till 14/03/2024 vide its adjournment request dated 28/02/2024, the copy of which forms part of the paper book on page 25. However, it is evident from the perusal of the impugned order that the learned CIT(E) without considering and without

taking due notice of the adjournment sought by the assessee proceeded to pass the impugned order on 04/03/2024 and rejected the application filed by the assessee in Form 10AB and also rejected the Provisional Registration granted on 25/03/2022 under section 12AB read with section 12A(1)(ac)(vi) of the Act on the basis that the assessee has not furnished any explanation to the discrepancies communicated to it.

5. Having considered the submissions of both sides and perused the material available on record, in view of the facts and circumstances of the present case as noted above, we deem it appropriate to restore the application filed by the assessee in Form 10AB for seeking registration under section 12AA of the Act to the file of the learned CIT(E) for *de novo* adjudication after providing reasonable opportunity of hearing to the assessee. The assessee is also directed to furnish all the information as may be sought by the learned CIT(E). With the above directions, the impugned order is set aside and grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 22/11/2024

**Sd/-**  
**OM PRAKASH KANT**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 22/11/2024**  
*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai