

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUDHIR KUMAR, JUDICIALMEMBER**

ITA No.3174/DEL/2024

ITA No.3175/DEL/2024

Prabhu Dayal Eye Institute and Research Centre,
Tosham Bye Pass, Hansi Road,
Opp District Jail Dev Nagar Colony,
Bhiwani – 127 021 (Haryana).

**(PAN: AALAP4861C)
(APPELLANT)**

vs.

CIT (Exemption),
Chandigarh.

(RESPONDENT)

ASSEESSEE BY : Shri Vishal Kalra, Advocate
Shri Ankit Sahni, Advocate
REVENUE BY : Ms. Rajinder Kaur, CIT DR

Date of Hearing : 05.11.2024
Date of Order : 27.11.2024

ORDER

PER S. RIFAUH RAHMAN, AM :

1. These two appeals are filed by the assessee against the separate orders of Id. Commissioner of Income-tax (Exemptions), Chandigarh/National Faceless Appeal Centre (NFAC) (hereinafter referred to 'Ld. CIT (A)') dated 20.01.2024 and 24.01.2024 respectively.
2. At the time of hearing, Id. Counsel for the assessee submitted that there was a delay of filing the appeals of 105 days before the ITAT and in this regard,

he has filed the affidavit and application for condonation of delay giving the reasons for the delay in filing the same and the relevant portion of the condonation of delay application is reproduced below for the sake of clarity:-

“A. The Applicant, having appointed Chartered Accountant Ankit Raj, upon receipt of the impugned order was advised to file a grievance with the Revenue on account of non-consideration of the Applicant's reply by the respondent, instead of filing appeal before the Hon'ble Tribunal. The Applicant promptly filed this grievance on January 25, 2024. However, the grievance was disposed of on April 30, 2024, with a direction to file the grievance with the respondent instead. Following this, the Applicant was advised to file a new application under section 10AB seeking regular approval under section 12A(1)(ac)(iii) of the Act. The new application was filed on February 2, 2024.

B. In the meantime, the Applicant got a review of the aforesaid proceedings via an independent tax advocate. The new tax counsel recommended that the Applicant should file an appeal against the impugned.

C. Taking the cognizance of such recommendation, the Applicant has- filed the subject appeal against the impugned Order.

1.7. Further, in view of the above facts and sequence of events, it is respectfully submitted that the above delay in filing the appeal was neither wilful nor deliberate and it has sufficient cause for not filing the appeal within the statutory time limit as provided under section 253(3) of the Act. There is no malafide intention on part of the Applicant and it has filed at the earliest. Thus, the Applicant requests your Honours to condone the delay in filing the appeal and allow the Applicant an opportunity to contest the issue on the grounds and provide substantial justice to the Appellant.”

3. Further, Id. AR for the assessee, after relying on the judgment of Hon'ble Supreme Court in the case of Mst. Katiji & Ors., requested that the delay of 105 days may be condoned in view of the peculiar facts and circumstances of the case as explained in the condonation application.

4. On the other hand, ld. DR for the Revenue objected to the application of condonation of delay.
5. Considered the submissions of both the parties and material placed on record. After going through the explanation given by the assessee, as reproduced above, we are inclined to condone the delay in filing both the appeals, hence the same is condoned.
6. Brief facts of the case are, assessee filed an application for registration u/s 12A (1)(ac)(iii) of the Income-tax Act, 1961 (for short 'the Act') was filed on 26.08.2023. Ld. CIT (Exemptions), Chandigarh on receipt of the above application proceeded to examine and verify the activities of the Trust whether it is in accordance with its objects, genuineness and in compliance of requirements as per law. Accordingly, he issued questionnaire to the assessee and directed the assessee to file the same through online. Various documents required by the ld. CIT (E) is reproduced at pages 3 & 4 of the order. Ld. CIT (E) observed that no submissions were made by the assessee nor any request for adjournment was made. Further letters were issued to the assessee and there was no compliance to two reminders sent on 02.12.2022 and 01.01.2024. Because of non-compliance from the assessee side, ld. CIT (E) rejected the application filed by the assessee in Form 10AB. Similarly, in appeal preferred by the assessee in ITA No.3175/Del/2024,

assessee filed application u/s 80G of the Act for registration. Since there was no compliance from the assessee even this application was rejected on the same ground.

7. Aggrieved with the above order, assessee is in appeal before us.
8. At the time of hearing, ld. AR for the assessee submitted that ld. CIT (E) issued questionnaire dated 27.09.2023 asking the assessee to furnish the details on or before 12.10.2023. Further, CA, namely, Shri Ankit Raj has submitted the requisite details via email to the address i.e. intimations@cpc.incometax.gov.in, which is not proper email id. The assessee corrected the above mistake by resubmitting the details in correct email id i.e. chandigahr.cit.exmp@incometax.gov.in on 22.12.2023. The assessee responded to the second notice also. However, ld. CIT (E) passed an ex parte order dated 20.01.2024. He prayed that the assessee has responded to the notices, however, due to communication gap and responding to wrong email id, delay was caused and he prayed that the issue may be remitted back to ld. CIT (E) to appreciate various documents filed by the assessee, if required assessee will submit the same.
9. On the other hand, ld. DR for the Revenue supported the findings of CIT(E).
10. Considered the rival submissions and material placed on record. We observed that the assessee has submitted the information required for

registration in the wrong email. Considering the facts on record, in our considered view and for the purpose of natural justice, this issue has to go back to the file of Id. CIT (E) to appreciate various documents filed by the assessee for granting the registration. The assessee is directed to submit relevant information if required on physical mode as well as through e-portal and respond to the notices issued by the Id. CIT (E). Accordingly, we remit this issue back to the file of Id. CIT (E) to consider the submissions for grant of registration as per law after giving proper opportunity of being heard to the assessee. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

11. Since, the facts in ITA No.3175/Del/2024 are exactly similar, our above findings in ITA No.3174/Del/2024 are applicable *mutatis mutandis* in ITA No.3175/Del/2024. Accordingly, the appeal being ITA No.3175/Del/2024 filed by the Assessee is allowed for statistical purposes.
12. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 27th day of November, 2024.

**Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated : 27.11.2024
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(E), Chandigarh.
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI