

IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITAs No. 5260 & 5314/MUM/2024

MIAM Charitable Trust,

A/103, 1st Floor Sun Swept,
2nd Cross Lane, Okhandwala,
Andheri West,
Maharashtra - 400053
PAN: AAITM1924D

..... Appellant

v/s

CIT (Exemptions)

Mumbai- 400012

..... Respondent

Assessee by : Shri Jay Thakkar

Revenue by : Shri Raj Singh Meel, Sr.DR

Date of Hearing - 21/11/2024

Date of Order - 27/11/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

These two appeals have been filed by the assessee challenging the denial of registration under section 12AA and section 80G of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Exemptions), Mumbai [*learned CIT(E)*].

ITA No.5260/Mum/2024 (A.Y. 2024-25)

2. This appeal has been filed by the assessee challenging the impugned order dated 12.08.2024, rejecting the application filed by the assessee in Form 10AB for seeking registration under section 12AB of the Act.

3. In this appeal, the assessee has raised the following grounds: –

"The Assessee prefers an appeal against an order dated 12/08/2024 passed by Learned Commissioner of Income Tax (Exemptions), Mumbai on following amongst other grounds, each of which is without prejudice to any other:

1. On the facts and circumstances of the case and in law, the Ld. CIT (Exemptions), has not provided proper opportunity of being heard which is against principal of natural justice.

2. On the facts and circumstances of the case and in law, the Ld. CIT(Exemptions) erred in rejecting application made for registration u/s 12A without considering facts that appellant has submitted all the required details with filed applications."

4. During the hearing, the learned Authorized Representative ("learned AR") submitted that the provisional registration was issued to the assessee on 19.01.2023 under section 12A(1)(ac)(vi) of the Act and accordingly the assessee filed its application for final registration before the learned CIT(E) in Form 10AB on 14.02.2024. The learned AR submitted that the assessee filed the basic details and documents along with the aforesaid application. It was further submitted that the regular representative of the assessee attended before the office of learned CIT(E) and vide letter dated 13.08.2024 sought an adjournment till 19.08.2024. Thereafter, the representation vide letter dated 22.08.2024 filed additional details and documents on record. However, the learned CIT(E) without considering the adjournment application and submissions filed on record passed the order on 12.08.2024. From the perusal of the impugned order, we find that the learned CIT(E) issued two notices to the assessee on 02.07.2024 and thereafter on 01.08.2024 seeking details in support of the application filed by the assessee for final registration under section 12AA of the Act.

However, in the absence of any response from the assessee, the learned CIT(E) rejected the application filed by the assessee. Vide affidavit of the Managing Trustee of the assessee sworn on 18.11.2024, filed during the hearing, it is submitted that the aforesaid notices were only uploaded on the Income Tax Portal and the assessee neither received a physical copy nor received the same on its registered e-mail address. Accordingly, the relevant documents as sought by the learned CIT(E) could not be filed in time. The learned AR submitted that given another opportunity, the assessee will furnish all the documents as sought before the learned CIT(E).

5. Having considered the submissions and perused the material available on record, in view of the circumstances 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) without any default. 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.

ITA No.5314/Mum/2024 (A.Y. 2024-25)

7. In this appeal, the assessee has challenged the rejection of its application for the grant of a certificate under section 80G of the Act. As we have remanded the issue of grant of registration under section 12AA of the

Act to the file of the learned CIT(E) for *de novo* adjudication, therefore the order of the learned CIT(E) for rejecting the application for registration under section 80G of the Act is also set aside and the matter is restored to the file of the learned CIT(E) for deciding afresh. As a result, the grounds raised by the assessee are allowed for statistical purposes.

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

9. To sum up, both appeals by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 27/11/2024

Sd/-
OM PRAKASH KANT
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 27/11/2024

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