

आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 1198/Kol/2024

Assessment Year: 00

The Tsuklakhang Trust (PAN: AABTT 8457 B)	Vs.	ITO, Ward-3(1), Gangtok
Appellant / अपीलार्थ)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	18.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	27.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri Siddharth Jhajharia, FCA
For the Respondent/ राजस्व की ओर से	Shri Abhijit Kundu, CIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Exemption)-Kolkata (hereinafter referred to as the "Ld. CIT(E)") dated 05.02.2024.

2. It appears from the record that the appeal is time barred by 49 days. The Ld. Counsel for the assessee filed a condonation petition with referred to delay of 49 days. The Ld. Counsel submits that in fact assessee received the order for rejection of application for approval u/s 12A(1)(ac)(iii) dated 05.02.2024 and the same has come to

the knowledge of the assessee only in 3rd week of May, 2024. The Ld. Counsel further submits that on perusal of the order it finds that it was an ex-parte order by the Ld. CIT(E) and has been passed on 05.02.2024 and it was served on e-mail at any point of time. The Ld. Counsel further submits that after receipt of such order on e-portal the matter was forwarded to the tax consultants and thereby the matter was prepared and sent to us for signing etc. and in this way, there is some delay. The Ld. Counsel for the assessee submits that delay was not intentional rather it was bonafide and his prayer is to admit the appeal after condoning the delay.

3. The Ld. D.R did not raise any objection in condoning the delay.

4. Keeping in view the condonation petition as well as view of Apex Court that the case should be decided on merit not on technical issue. The delay is hereby condoned.

5. The Ld. Counsel has challenged the impugned order of Ld. CIT(E) in which the application has been rejected only on this ground that the assessee did not produce any relevant documents for verification before the competent authority. The submission of the Ld. Counsel of the assessee is that in fact all the necessary documents which were required by the Ld. CIT(E) for granting registration u/s 12A(1)(ac)(iii) were already in his possession as the trust deed, copies of accounts and all other relevant details were filed at the time of applying for provisional approval, hence such action of the Ld. CIT(E) in disallowing the application is arbitrarily and mechanical. The Ld. Counsel prayed to restore the case before the Ld. CIT(E) by giving opportunity to the assessee to place the entire documents required for registration.

6. The Ld. D.R though supports the order of Ld. CIT(E) but did not raise any objection in restoring the case before the Ld. CIT(E).

7. We have perused the case and found that the assessee had filed an application in Form 10AB for registration u/s 12A(1)(ac)(ii) of the Act. It further appears that notice was issued through ITBA fixed herein on 27.12.2023 but there was no compliance to the notice. Again, a notice was issued but there was no response from the assessee.

Accordingly, an application for registration u/s 12A(1)(ac)(iii) of the Act has been rejected. The only prayer of the assessee is that he has given an opportunity to place all the papers before the Ld. CIT(E). It admits no doubt that the assessee is a trust and filed an application in Form no. 10AD for registration under the Act. Keeping in view, the facts of the case, we are inclined to give an opportunity to the assessee to place all those papers necessary for registration before the Ld. CIT(E). The order of Ld. CIT(E) is hereby set aside. The case of the assessee is restored in the file of Ld. CIT(E). Learned CIT(E) is here by directed to pass appropriate and just order for granting registration after perusing the documents filed by the assessee.

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

Order is pronounced in the open court on 27th November, 2024

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 27th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- The Tsuklakhang Trust, C/o, M/s Salarpuria Jajodia & Co., 3rd Floor, Kolkata-700072
2. Respondent – ITO, Ward-3(1), Gangtok
3. Ld. CIT(E)-Kolkata
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
 ITAT, Kolkata Benches, Kolkata