

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5370 and 5371/MUM/2024  
Assessment Year: None**

Pukar Seva Pratishthan, KL Colony Anand Nagar, Gandhinagar Kopari Colony, Thane, Mumbai – 400603  (PAN : AAKAP5759N)	Vs.	Commissioner of Income Tax (Exemption), Pune
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri R.D. Khona, CA  
Revenue : Shri R.A. Dhyani, CIT DR

Date of Hearing : 26.11.2024  
Date of Pronouncement : 27.11.2024

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

These two appeals filed by the assessee are against the orders of Ld. CIT(Exemption), Pune, vide order Nos. ITBA/EXM/F/EXM45/2024-25/1068104550(1) and ITBA/EXM/F/EXM45/2024-25/1068105410(1) dated 29.08.2024 u/s. 12AA and 80G(5), respectively of the Income-tax Act (hereinafter referred to as the "Act").

2. Grounds taken by the assessee in both the appeals are reproduced as under:

ITA No. 5370/MUM/2024

*"1. The learnt CIT Exemption, Pune has dismissed application in Form 10AB under clause (iii) of section 12A(1)(ac) of Income Tax Act, 1961, filed on 29/03/2024 without giving reasonable opportunity as email sent was not received by the trustee and also rejected the provisional registration granted on 28/02/2023 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled.*

*2. The CIT Exemption, Pune order dated 29/08/2024 and the application filed by the assessee for registration of trust under clause 02 sub clause III of clause (AC) sub clause (i) of section 12A to be restore as email sent by commissioner officer was not received by the trustee.*

*3. The assessee had not been given sufficient opportunity to make its submissions with regard to the proceedings under section 12A(1)(ac) (iii) since it was not served with any notice. The assessee would be entitled to file its reply, and the Department would be entitled to examine it and pass a fresh order thereafter. The order was quashed and set aside.*

*4. The assessee has rely upon the decision of Munjal Bcu Centre of Innovation and Entrepreneurship vs. DY. CIT (Exemptions) [2024] 463 ITR 560 (P&H) Date of order: 4th March, 2024 Ss. 12A(1)(ac)(iii) and 282(1) of the ITA 1961; R. 127(1) of the Income- tax Rules, 1962. It was held as under, Notice-Service of notice-Method and manner of service of notice under statutory provisions - Charitable purpose - Registration Notice by Commissioner (Exemptions) - Notice and reminders not sent to assessee's e-mail address or otherwise but only reflected on e-portal of Department - Assessee not able to file reply - Violation of principles of natural justice - Notice set aside.*

*5. That where Assessing Officer issued statutory show cause notices to assessee at e mail address which was not in use, impugned best judgment assessment order deserved to be set aside. (Bengal & Assam Company Ltd v. National Faceless Assessment Centre-154 taxmann.com 130 (Delhi) dt. July 4, 2023)*

*6. The decision of (2024) 165 taxmann.com 39(Cuttack Trib) Ma Jagat Janani Seva Trust vs. CIT ITA No.: 248(Ctk) of 2023 Date of Order: 16th July, 2024 S12A/12AB-where the show cause notice was issued on 6th October, 2022, c could not have cancelled registration retrospectively with effect from 2 April, 2014 in so far as section 12AA/12AB do not provide for cancellation of registration with retrospective effect.*

ITA No. 5371/MUM/2024

*“1. The learnt CIT Exemption, Pune has dismissed application in Form 10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961, filed on 29/03/2024 without giving reasonable opportunity as email sent was not received by the trustee and also rejected the provisional registration granted on 28/02/2023 under section 12AB read with section 12A(1)(ac)(vi) of the Income Tax Act, 1961 is hereby cancelled.*

*2. The assessee had not been given sufficient opportunity to make its submissions with regard to the proceedings under section clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961, since it was not served with any notice. The assessee would be entitled to file its reply, and the Department would be entitled to examine it and pass a fresh order thereafter. The order was quashed and set aside.*

*3. The assessee has rely upon the decision of Munjal Bcu Centre of Innovation and Entrepreneurship vs. DY. CIT (Exemptions) [2024] 463 ITR 560 (P&H) Date of order: 4th March, 2024 Ss. 12A(1)(ac)(iii) and 282(1) of the ITA 1961; R. 127(1) of the Income- tax Rules, 1962. It was held as under, Notice-Service of notice-Method and manner of service of notice under statutory provisions - Charitable purpose - Registration - Notice by Commissioner (Exemptions) - Notice and reminders not sent to assessee's e-mail address or otherwise but only reflected on e-portal of Department - Assessee not able to file reply - Violation of principles of natural justice - Notice set aside.*

*4. That where Assessing Officer issued statutory show cause notices to assessee at e- mail address which was not in use, impugned best judgment assessment order deserved to be set aside. (Bengal & Assam Company Ltd v. National Faceless Assessment Centre-154 taxmann.com 130 (Delhi) dt. July 4, 2023)*

*5. The decision of (2024) 165 taxmann.com 39(Cuttack Trib) Maa Jagat Janani Seva Trust vs. CIT ITA No.: 248(Ctk) of 2023 Date of Order: 16th July, 2024 S. 12A/12AB-where the show cause notice was issued on 6th October, 2022, CIT(E) could not have cancelled registration retrospectively with effect from 1st April, 2014 in so far as section 12AA/12AB do not provide for cancellation of registration with retrospective effect.”*

3. Since these two appeals are by the same assessee, we take up both together for adjudication by passing a consolidated order. Brief facts of the case are that assessee is a trust registered on 03.06.2022 under the Public Trust Act, 1950. Assessee had obtained provisional approval u/s.12A on 28.02.2023 for AY 2023-24 to 2025-26 in Form 10AC. Assessee did not apply for fresh registration within 6 months of commencement of its activity. It filed application in Form No. 10AB vide CIT Exemption, Pune/2024-25/12AA/11602 under clause (iii) of section 12A(1)(ac) of the Act on 29.03.2024. CBDT vide Circular no. 7

of 2024 dated 25.04.2024 extended the due date for filling of Form 10A/10B up to 30.06.2024.

3.1. Pursuant to the application filed by the assessee, ld. CIT (Exemption), Pune issued two notices, dated 23.05.2024 and 11.07.2024 asking the assessee for various details. Assessee claimed that it did not receive the said notices sent by ld. CIT(E), Pune and hence could not be complied with.

4. Assessee contended that ld. CIT(E) dismissed the application filed by it in Form 10AB under clause (iii) of section 12A(1)(ac) of the Act on 29.03.2024 without giving reasonable opportunity as emails claimed to have been sent were not received by the trustee. According to the assessee, rejection of provisional registration granted on 28.02.2023 u/s 12AB r.w.s.12A(1)(ac) (vi) of the Act is also not justified. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us, assessee submitted a list of objectives of Trust which includes noble objects for various activities. It also submitted an affidavit of Trustee Shri Hamraj Ramesh Joshi, separately affirming the fact of non-receipt of emails claimed to have been sent by the ld. CIT(E). Assessee made a plea to set aside the matter back to the file of ld. CIT(E) for *denovo* consideration of the application already filed by the assessee for registration u/s 12A of the Act for which assurance was given that assessee shall make all the due compliances as and when called for.

5.1. Assessee relied upon the decision of Munjal Bcu Centre of Innovation and Entrepreneurship vs. DY. CIT (Exemptions) [2024] 463 ITR 560 (P&H), dated 04.03.2024 which dealt with similar issue u/s.

12A(1)(ac)(iii) and 282(1) of the Act, Rule 127(1) of the Income- tax Rules, 1962, for which the headnote reads as “*Notice-Service of notice- Method and manner of service of notice under statutory provisions - Charitable purpose - Registration - Notice by Commissioner (Exemptions) - Notice and reminders not sent to assessee's e-mail address or otherwise but only reflected on e-portal of Department - Assessee not able to file reply - Violation of principles of natural justice-Notice set aside.*”

6. In reference to above stated facts, we perused the order of Id. CIT(E) to note from para 2 and 4 that two notices were issued on the assessee, dated 23.05.2024 and 11.07.2024 for which it is stated that the same were issued through ITBA Portal and e-mail. Assessee could not furnish details and comply with the same and thus the application was rejected. Even the provisional registration granted on 28.02.2023 was cancelled. It is worth noting that in the present regime of technologically driven tax administration, access to email and e-portal of the Department for continuous monitoring of compliance requirements is at nascent stage, requiring learnings at both ends, i.e. assessee as well as the department.

6.1. Assessee is a Trust set up for charitable purpose and has affirmed about the non-receipt of any communication from the office of Id. CIT(E), for which compliance was sought. By way of an affidavit assessee has sought an opportunity to make necessary compliances in respect of the application made for registration which in the given set of facts and circumstances and the discussion made above seems to be appropriate for granting one more opportunity, by setting aside the matter back to the file of Id. CIT(E) to consider the application so made and grant registration in accordance with the provisions of law.

Accordingly, grounds taken by the assessee are allowed for statistical purposes.

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

8. Identical fact pattern exists in the application made u/s.80G(5) of the Act. Our observations and findings given above, in respect of appeal in ITA No.5370/Mum/2024, applies *mutatis mutandis* in this appeal also. Accordingly, this appeal is also allowed for statistical purposes in terms of our stated observations and finding.

9. In the result, both the appeals are allowed for statistical purposes.

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

Sd/-

(Amit Shukla)  
Judicial Member

Sd/-

(Girish Agrawal)  
Accountant Member

***Dated: 27 November, 2024***

*MP, Sr.P.S.*

**Copy to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai