

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

ITA No.	A.Y.	Appellant	Respondent
5276/Mum/2024	2024-25	Spreadingbliss Foundation, Shop No. 8, Near Samudra Hotel, Tare Compound, Dahisar East, Mumbai PAN: ABACS6153J	CIT (Exemptions), 601, 6 th Floor, MTNL Building, Peddar Road, Cumbala Hill, Mumbai
5279/Mum/2024	2024-25		

For Assessee :	Shri Brijesh Vyas
For Revenue :	Shri Yogesh Kamat, CIT-DR

Date of Hearing :	12-11-2024
Date of Pronouncement :	27-11-2024

ORDER

PER OM PRAKASH KANT, A.M :

These two appeals by the assessee are directed against two separate orders, dt. 31-07-2024 & 12-08-2024, respectively, passed by the Ld. Commissioner of Income Tax (Exemptions)-Mumbai, [in short Ld.CIT(E)] in relation to registration of the Trust u/s. 12AB and Section 80G of the Income Tax Act, 1961 (in short 'the Act') respectively. For the sake of convenience, both these appeals are decided by this common order.

2. The learned counsel for the assessee pointed out that appeal in ITA No. 5279/Mum/2024 has been filed with a delay of nine days. The learned counsel filed an affidavit by the trustee, explaining that the delay of nine days in filing the appeal was for the reason that the impugned order was sent on an incorrect e-mail ID. The relevant part of the affidavit is reproduced as under:

“3. However, the Ld. CIT(E) issued notice dated 11.06.2024 (with compliance date 14.06.2024 i.e. only 3 days time for compliance) on incorrect email id viz. ritiak.singh 12398@gmail.com instead of sending it on correct email id viz ritikasingh 12398@gmail.com (which is mentioned in Form 10AB).

4. As the notice was issued on wrong email id, therefore, I was not knowing about the issuance of notice. Therefore, no details were filed before CIT(E).

5. In absence of reply from SF, the Ld. CIT(E) vide order dated 31.07.2024 rejected the application for approval u/s 80G of Income Tax Act, 1961. The due date for filing appeal before the Tribunal was 29.09.2024. However, the order was also issued on wrong email id. Therefore, we were not knowing about the rejection order.

6. In October first week, when I logged into Income Tax Portal for status of application. I come to know that the application is already rejected vide order dated 31.07.2024.

7. Immediately I have started the process of filling appeal before Income Tax Appellate Tribunal and accordingly the appeal was filed on 08.10.2024. This resulted into delay of 9 days in filling the appeal before Hon'ble Income Tax Appellate Tribunal which is beyond our control.

8. Due to such unfortunate events, there has been a delay of 9 days in filing appeal before Income Tax Appellate Tribunal. Under the aforesaid circumstances, I submit that the delay in filling appeal was neither intentional nor warranted and if the delay is not condoned then SF will suffer irreparable loss and injury. As, the delay caused due to genuine and bona fide reasons, So I request your honour to kindly condone the delay in filing appeal before the Income Tax Appellate Tribunal in the interest of justice and equity.

9. I tender my sincere apology to Hon'ble Members and promise to be more vigilant in future.”

2.1. As the assessee has explained sufficient cause for delay of nine days in filing the appeal, accordingly, the appeal in ITA No. 5279/Mum/2024 is admitted for adjudication.

ITA No. 5276/Mum/2024:

3. We have heard rival submissions of the parties and perused the relevant material on record. While rejecting the registration u/s. 12AB of the Act, the Ld.CIT(E) has rejected the application of the assessee, mainly for the reason that no compliance of the notices issued was made on the part of the assessee. The relevant findings are reproduced as under:

“3. On verification of the application in Form 10AB filed by the assessee, it was found that the application was not complete, and all the documents required to be accompanying the application were not furnished. Hence, a notice was issued to the applicant vide DIN & Notice No. ITBA/EXM/F/EXM43/2023-24/1066367534(1) dated 03.07.2024 requesting the assessee to furnish the complete set of documents mentioned in Rule 17A(2). As no response was received from the assessee in terms of the said notice, a reminder notice also was issued vide DIN & Notice No. ITBA/EXM/F/EXM43/2024-25/1067239536(1) dated 01.08.2024.

4. The Applicant has made no compliance to the terms of the show cause notices. Registration under section 12AB is to be granted in terms of the provisions of section 12AB(1)(b) of the Act after being satisfied about the objects of the trust or institution, the genuineness of activities, and the compliance of any other law for the time being in force as are material for the purposes of achieving its objects. In the absence of necessary compliance by the Applicant, the undersigned is unable to arrive at a satisfactory conclusion on these parameters. As such, in view of the statutory limitation to decide on the application on or before 31.08.2024, the undersigned is left with no other option but to reject the application seeking registration under section 12AB of the Act.”

3.1. Before us, the learned counsel for the assessee submitted that due to notices sent on the incorrect e-mail ID, the assessee could not comply the said notices issued by the Ld.CIT(E). The learned counsel given an undertaking on behalf of the assessee that if the matter is restored back to the file of Ld.CIT(E), then all the notices would be duly complied and all explanations sought for by the Ld.CIT(E) would be responded. In view of the above facts and circumstances and the undertaking given by the assessee, we feel it appropriate to restore the matter back to the file of the Ld.CIT(E) for deciding afresh. The assessee is directed to provide a correct e-mail ID and respond to the notices, which may be issued by the Ld.CIT(E). Accordingly, the grounds raised in ITA No. 5276/Mum/2024 are treated as allowed for statistical purposes.

4. In the result, the appeal in ITA No. 5276/Mum/2024 is treated as allowed for statistical purposes.

ITA No. 5279/Mum/2024:

5. In this appeal, the assessee is aggrieved with the following findings of the Ld.CIT(E):

“3. On perusal of the Form 10AB filed by the assessee it was observed that the assessee has applied under clause (ii) of first proviso to sub-section (5) of section 80G i.e. for renewal of approval and not for regularisation of provisional approval. Hence this Application is hereby rejected.”

6. Since we have already restored the issue of registration u/s. 12AB of the Act and, therefore, we feel it appropriate to restore this issue of registration u/s. 80G of the Act, which is consequent to the registration u/s. 12AB of the Act. Therefore, we restore this appeal also to the file of the Ld.CIT(E) for deciding afresh. Accordingly, the grounds raised in

ITA No. 5279/Mum/2024 are also treated as allowed for statistical purposes.

7. In the result, the appeal in ITA No. 5279/Mum/2024 is treated as allowed for statistical purposes.

8. To sum-up, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 27-11-2024

Sd/-

(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai,

Date : 27-11-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "F" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai