

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI,

आयकर अपील सं./ITA Nos. 825 to 828/JP/2024

Greeting Hands For Abandoned Rescues Trust, Ajmer	बनाम Vs.	ITO, Ward-2(1), Ajmer
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAETG 2944 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. R. S. Poonia, CA
राजस्व की ओर से / Revenue by : Sh. Arvind Kumar, CIT-DR

सुनवाई की तारीख / Date of Hearing : 23/10/2024
उदघोषणा की तारीख / Date of Pronouncement: 29/11/2024

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

These bunch of four appeals filed by assessee are arising out of the order of the Commissioner of Income Tax, Exemption, Jaipur dated 23/03/2024 [here in after 'CIT(E)'] rejecting thereby the registration u/s 12AB and cancelling the provisional registration u/s. 12AB & recognition the trust u/s 80G of the Act.

2. At the outset of hearing, the Bench observed that there is delay of 09 days in filing of the appeal by the assessee for which the Id. AR of the

assessee filed an application for condonation of delay with following prayers:

Sub: Regarding acceptance of application for condonation of delay in case of M/s. Greeting Hands For Abandoned Rescues Trust having appeal No. 825/JPR/24, ITA No. 826/JPR/24, ITA No. 827/JPR/24 and ITA No. 828/JPR/24 (PAN: AAETG2944B).

Respected Members,

With reference to above subject we request you that:-

1. That assessee-trust filed 4 appeals on 31.05.2024 against the ex-parte order passed by Ld. CIT (Exemption), Jaipur on rejection of registration u/s. 12A & rejection of approval u/s. 80G of the I.T. Act, 1961, with a delay of 9 days. Simultaneously, by the same rejection orders the Ld. CIT (Exemption), Jaipur cancelled the provisional registration/approval granted by the PCIT/CIT,CPC hence total 4 appeals were filed, which are as follows:-

Sr No.	Particular	Appeal No.
1	Rejection Order u/s. 12A registration [i.e. u/s. 12A(1)(ac)(iii)]	ITA No. 825/JPR/24
2	Cancellation order of provisional registration u/s. 12A [i.e. u/s. 12A(1)(ac)(vi)]	ITA No. 826/JPR/24
3	Rejection Order u/s. 80G approval [i.e. 80G(5)(iii)]	ITA No. 827/JPR/24
4	Cancellation order of provisional approval u/s. 80G [i.e. 80G(5)(iv)]	ITA No. 828/JPR/24

2. That the delay of 9 days in filing of appeals was due to delay in engage a counsel, who is well-versed by the latest development related to latest law related to registration of charitable trust under Section 12A & 80G of the I.T. Act 1961, as there are many recent changes in trust related laws as:-

- (i). Whether the registration under RPT Act, 1959 is must or not.
- (ii). Whether, what is the exact legal remedy available to the trust viz. re-apply or appeal.
- (iii). And many more other issues.

3. That more or less most of charitable trusts and consultants are not well-versed with the latest development of Income Tax Laws related to registration u/s. 12A & 80G of the Act. Therefore, the Parliament has amended many times in recent past to clarify the Law & CBDT has also issued around 4-5 circulars to extend the due dates & clarify the Law to remove the genuine hardship faced by the charitable trusts.

4. That in the circumstances as mentioned in above Para No. 2 and 3, the delay is due to delay in engage a counsel who is well-versed with the law related to charitable trust.

In view of above submission you are requested that kindly consider this as reasonable cause to condone the delay of 9 days and kindly remand back the case to CIT(Exemption), Jaipur. So, that proper inquiry can be conducted and substantial justice may be delivered to the appellant.”

The Id. AR of the assessee also submitted due to frequent changes in the law it took time to file the appeal and therefore, he prayed to condone the delay of 9 days.

3. During the course of hearing, the Id. DR fairly did not objected to assessee's application for condonation of delay and prayed that Court may decide the issue as deem fit in the interest of justice as delay is of nine days only.

4. We have heard the contention of the parties and perused the materials available on record. The prayer by the assessee for condonation of delay of nine days has merit and we concur with the submission of the assessee. Thus the delay of nine days in filing the

appeal by the assessee is condoned in view of the decision of Hon'ble Supreme Court in the case of Collector, land Acquisition vs. Mst. Katiji and Others, 167 ITR 471 (SC) as the assessee is prevented by sufficient cause.

5. In ITA No. 825/JP/2024, the assessee has taken the following grounds of appeal;

“1. That the order passed by Ld. Commissioner of Income Tax, Exemption, Jaipur by rejecting application u/s 12AB(1)(b) of the IT Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the same.

2. That the appellant craves permission to add to or amend to any of the above grounds of appeal or to withdraw any of them.”

5.1 In ITA No. 826/JPR/2024 the assessee has raised following grounds:

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“1. That the Ld. CIT (Exemption), Jaipur has erred in law and in facts of the case by neither recording the independent satisfaction for rejection of provisional registration and nor issued Show Cause Notice for rejection of provisional registration u/s. 12A of the I.T. Act 1961 which is wrong, unwarranted and bad in Law. Kindly restore the same.

2. That the Ld. CIT (Exemption), Jaipur has erred in law and in facts of the case in rejecting the provisional registration u/s. 12A without issuing separate DIN of the rejection order, which is against the circular & notification issued by the CBDT. So, the same is wrong, unwarranted and bad in Law. Kindly restore the same.

3. That the order passed by Ld. Commissioner of Income Tax (Exemption), Jaipur by rejecting provisional registration u/s. 12A of the I.T. Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the same.

4. That the appellant craves permission to add to or amend to any of the above grounds of appeal or to withdraw any of them.

5.2 In ITA No. 827/JPR/2024 the assessee has raised following grounds:

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"1. That the order passed by Ld. Commissioner of Income Tax, Exemption, Jaipur by rejecting application u/s. 80G(5)(iii) of the I.T. Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the appellant.

2. That the appellant craves permission to add to or amend to any of the above grounds of appeal or to withdraw any of them.

5.3 In ITA No. 828/JPR/2024 the assessee has raised following grounds:

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"1. That the Ld. CIT (Exemption), Jaipur has erred in law and in facts of the case by neither recording the independent satisfaction for rejection of provisional approval and nor issued Show Cause Notice for rejection of provisional approval u/s. 80G of the I.T. Act 1961 which is wrong, unwarranted and bad in Law. Kindly restore the same.

2. That the Ld. CIT (Exemption), Jaipur has erred in law and in facts of the case in rejecting the provisional approval u/s. 80G without issuing separate DIN of the rejection order, which is against the circular & notification issued by the CBDT. So, the same is wrong, unwarranted and bad in Law. Kindly restore the same.

3. That the order passed by Ld. Commissioner of Income Tax (Exemption), Jaipur by rejecting provisional approval u/s. 80G of the I.T. Act, 1961 is wrong, unwarranted and bad in law. Kindly direct to register the same.

4. That the appellant craves permission to add to or amend to any of the above grounds of appeal or to withdraw any of them.

6. The assessee-applicant filed online application in Form No. 10AB seeking registration u/s 12AB of the Income Tax Act, 1961 on 30.09.2023. A letter/notice No. ITBA/EXM/F/EXM43/2023-

24/1060175236(1) dated 28.01.2024 was issued at the e-mail/address provided in the application requiring the assessee to submit certain documents/explanations by 09.02.2024, in response to the applicant sought for adjournment. Therefore, as per request of the applicant the case was adjourn to 15.02.2024. In response to the applicant has filed part reply on 21.02.2024, which was examined and further queries were given vide CIT(E)'s letter dated 03.03.2024 fixing the case on 11.03.2024. The assessee-applicant has submitted the submission on 11.03.2024 but not found tenable. Since it was a limitation matter, therefore, the case was decided by Id. CIT(E) based on the material filed by the assessee along with its application in Form no. 10AB and the application for registration u/s 12AB of the Act was rejected with following observations;

“3.5. In response, applicant has submitted the submission on 11.03.2024. On the basis of documents furnished by the applicant it is held that applicant's activities are non-genuine on the basis of following analysis.

- Applicant incurring expenditure on construction/renovation, while no land and building is owned thus expenditure in the object of trust or otherwise not proved.
- No details of ownership of land.
- Payment made to Shri Jatin Sharma trustee for reimbursement of expenses, however not submitted the relevant bills/voucher of the expenses and copy of bank account of Shri Jatin Sharma to prove

that expenditure has actually been made by Jatin Sharma for object of trust remain unproved.

- Payment made to Pranjal Mishra, Singhal Sharad, Chen Singh, Bhishm enterprises but not submit for which charitable activity such payment was made.
- No bills vouchers, copies of ledger accounts furnished in respect of expenses shown in income and expenditure account,
- Not furnished bank transaction details above Rs. 20,000/-,

From the above discussion it is held that applicant's activities are non-genuine thus application for registration is liable to be rejected

04. In view of above discussion assessee's claim of registration section 12AB is liable to be rejected and thus being rejected on following grounds: -

- Non registration under Rajasthan Public Trust Act, 1959.
- Non-Genuineness of Activities and non-compliance.

05. Further 12AB (1)(b)(ii)(B) of the Income Tax Act, 1961 also state that if CIT is not satisfied has to pass order rejecting such application and also cancelling its earlier registration. Thus, it is clarified that applicant's provisional registration under clause (vi) of clause (ac) of sub-section (1) of section 12A of the Income Tax Act, 1961 dated 13.12.2022 is also being cancelled. Further assessee has failed to give proper justification for regularization of provisional registration, thus with this order provisional registration is also lapsed and cancelled.

While doing so Id. CIT(E) also cancelled the provisional registration granted to the assessee with same order and that finding is taken up by the assessee in ITA No. 826/JP/2024.

7. Whereas in ITA No. 827/JPR/2024, the Id. CIT(E) rejected the assessee's claim of recognition u/s 80G of the Act by observing as under:-

“In view of the above, the present application filed in Form No.10AB under clause (iii) of first proviso to sub-section (5) of sec. 80G of the Act is liable to be rejected as non-maintainable.

04. In view of above discussion assessee's claim of approval u/s 80G is liable to be rejected and thus being rejected on following grounds: -

- Approval u/s 80G cannot be granted without registration u/s 12AB
- Commencement of activities.

05. Further 2nd proviso to 80G(5) also state that if CIT is not satisfied has to pass order rejecting such application and also cancelling its earlier approval. Thus, it is clarified that applicant provisional approval under clause (iv) of first proviso to sub- section (5) of section 80G of the Income Tax Act, 1961 dated 14.12.2022 is also being cancelled. Further assessee has failed to give proper justification for regularization of provisional approval, thus with this order provisional approval is also lapsed and cancelled.

8. As is evident from the above finding that here also provisional registration was cancelled which is challenged by assessee in ITA No. 828/JP/2024.

9. During the course of hearing, the Id. AR of the assessee in both the appeals mainly submitted that the assessee in the four opportunity granted could not file complete details and RPT registration certificate was also not available. The observation made

by the Id. CIT(E) are curable in nature and if given an opportunity will be able to clarify the queries/ issues raised / details to be submitted and thus in both the cases i.e. 12AB & 80G of the Act, the Id. AR of the assessee prayed that one more chance of presenting the case of the assessee be given as the assessee matter of Registration RPT Act is under active consideration and notice of Devsthan Vibhag is also published in the news paper on 08.03.2024.

10. Per contra, the Id. DR relied on the orders of the Id. CIT(E) and objected to the prayer of the Id. AR of the assessee.

11. We have heard the rival contentions and perused material available on record. We note that the Id. CIT(E) has rejected the application for permanent registration u/s 12AB of the Act on 23.03.2023. The Id. CIT(E) has issued four notices wherein the Id. CIT(E) has served notices in a short span of time and thereby not given sufficient opportunities to the assessee. The Id. CIT(E) rejected the application on the grounds that non genuineness of activities & non registration under Rajasthan Public Trust Act, 1959. On perusing the record we observe that the appellant has filed an

application in Form 10A seeking provisional registration u/s 12A(1)(ac)(vi) of the Act and provisional registration was granted on 13.12.2022. Subsequently, the assessee had filed online application in Form 10AB seeking permanent registration u/s 12AB of the Act on 30.09.2023 before Id. CIT(E), whereas the Id. CIT(E) has passed order in the absence of information and the same was not furnished completely for which Id. AR of the assessee prayed one more chance to submit all documents and explanations which are required for registration and recognition. Looking to the fact that the assessee was not given sufficient time and at the same time RPT registration yet to placed on record before Id. CIT(E) and other observation for which the assessee prayed one chance to submit the details of the merits of its case we considered the prayer of the assessee to set aside both the application to the file of the Id. CIT(E) for decision a fresh after providing sufficient opportunity of being heard. Based on the arguments presented before us, we are of the considered view that the reasons advanced by Id. CIT(E) are curable in nature and if the assessee be given a chance can submit the details and therefore, considering the request of the Id.AR of the assessee and in the interest of justice we are restoring the matter to the file of the

CIT(E) with direction to grant opportunity of being heard in respect of both the applications of the assessee. The Bench does not want to go into merit of the case but it is imperative that the assessee must be provided adequate opportunity of being heard by the Id. CIT(E). In this view of the matter, the Bench feels that the assessee should be given one more chance to contest the case before the Id. CIT(E) and the assessee is directed to produce all the relevant papers concerning both the applications so filed before the Id. CIT(E) to settle the dispute raised hereinabove.

12. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT(E) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(E) independently in accordance with law.

In the result, bunch of four appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 29/11/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 29/11/2024

*Ganesh Kumar, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Greeting Hands for Abandoned Rescues Trust, Ajmer
2. प्रत्यर्थी / The Respondent- ITO, Ward-2(1), Ajmer
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA Nos. 825 to 828/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar