

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.243/Nag./2024
(Assessment Year : N.A.)

Baliraja Bahuddeshiya Seva Sanstha
C/o Ashok Arun Wakode
Dinbandhu Seva Sadan Appellant
Nagsen Nagar, Nalwadi Wardha 442 001
PAN – AACTB6244M

v/s

Commissioner of Income Tax
(Exemption), Pune Respondent

Assessee by : None
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 27/11/2024

Date of Order – 06/12/2024

ORDER

PER K.M. ROY, A.M.

This appeal by the assessee is against impugned order dated 11/03/2024, passed by the learned Commissioner of Income Tax (Exemption), Pune, [*learned CIT(E)*].

2. In its appeal, the assessee has raised following grounds:-

"1. On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AB for grant of registration u/s 12AB of the Act without properly appreciating the facts of the case.

2. On the facts and circumstances of the case the learned Commissioner of Income tax (Exemption) was not justified in rejecting the application in Form 10AB for grant of registration u/s 12AB of the Act without appreciating that appellant was prevented with reasonable cause in not filing the reply on 06.03.2024 as the main person was out of India who is dealing in the income

tax matters and hence reply could not be filed but on earlier occasion reply along with documents were duly filed and as rejection was done without giving proper opportunity is not justified.

3. On the facts and in the circumstances of the case, the order of the Id. CIT (Exemption) was not justified in rejecting the registration under sec. 12AB of the Income-tax Act, 1961 dated 11.03.2024 by wrongly observing that as per the provisions of Rule 17A(2)(g) of the Income Tax Rules, 1962, copies of annual accounts relating to earlier three years i.e for the F.Y. 2019-2020, 2020-21 and 2021-22 were not submitted along with the application whereas it was duly submitted and still showing in attachments in e portal and the length of audit report enclosed is 3.04MB Thus, first reason for rejection is without any basis.

4. On the facts and in the circumstances of the case, the order of the Id. CIT (Exemption) was not justified in rejecting the registration under sec. 12AB of the Income-tax Act, 1961 dated 11.03.2024 by wrongly observing that as per the provisions trust has raised loans and Nature/ purpose of the same and its utilisation for each of the institution / project along with copy of permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner has not been furnished whereas it is not at all required as appellant have raised the loan from trustees and there is no requirement to seek permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner and thus second reason for rejection is also without any basis.

5. On the facts and in the circumstances of the case, the order of the Id. CIT(Exemption) was not justified in rejecting the registration under sec. 12AB of the Income-tax Act, 1961 dated 11.03.2024 on the ground that Year-wise lists of donations with details full name, address, PAN of donor, date and mode of donation, amount, receipt no. issued and copies of receipts issued has not been furnished without appreciating that appellant was prevented with reasonable cause in not filing these details and learned CIT (Exemption) may have given reasonable opportunity to submit the details as it was duly available and was not submitted as it was not intentional and only due to non availability of concerned person who is out of India.

6. On the facts and in the circumstances of the case, the order of the Id. CIT (Exemption) rejecting the registration under sec. 12AB of the Income- tax Act, 1961 dated 11.03.2024 is unjustified and against the principles of natural justice as it was passed without giving proper opportunity.

7. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal.

RELIEF: In view of grounds as narrated above, it is respectfully prayed that the Hon'ble Tribunal may be pleased to allow the appeal."

3. In this case, the learned CIT(E), Pune, had rejected the application in Form no.10AB, filed on 26/09/2023, by holding as follows:–

"2.1 The information / details were called for under the provisions of section 12AB(1)(b)(i) of the Act. These are the basic details required to ascertain the overall nature of the activities of the assessee and are directly relevant to the present proceedings. The assessee was requested to submit compliance by 29/11/2023. The notice was duly served on the assessee through e-portal and email.

2.2 On verification of the details submitted by the assessee in response to the said notice and the documents submitted along with the application, various discrepancies were noticed. Another notice was then issued to the assessee on 28/02/2024 and the discrepancies were duly communicated to it as reproduced below:

"(i) As per the provisions of Rule 17A(2)(g) of the Income Tax Rules, 1962, the application in Form No. 10AB shall be accompanied by the self certified copies of annual accounts relating to earlier three years or since inception, whichever is later. Thus, the annual accounts for the F.Y. 2019-2020, 2020-21 and 2021-22 were required to be submitted along with the application itself. However, it is seen that you have not furnished the same. You have failed to comply with the provisions of Rule 17A(2)(g) of the Income Tax Rules, 1962.

(ii) Trust has raised loans. Nature/ purpose of the same and its utilisation for each of the institution / project along with copy of permission under section 36A of the Maharashtra Public Trust Act, 1950 from the Charity Commissioner has not been furnished.

(iii) Year-wise lists of donations with details full name, address, PAN of donor, date and mode of donation, amount, receipt no. issued and copies of receipts issued has not been furnished."

2.3 The assessee was requested to show cause as to why the application should not be rejected and why the registration granted under section 12AB of the Income Tax Act, 1961 should not be cancelled. The assessee was also given opportunity of being heard vide the said notice. The assessee was specifically informed that in the event of failure to comply by the due date, the application shall be liable to be rejected and the registration shall also be liable to be cancelled. The compliance to the said notice was due on 06/03/2024. The notice was duly served on the assessee through e-portal and email. However, the assessee neither submitted explanation to the show cause notice till date nor availed the opportunity of being heard.

3. Since, the assessee has not furnished any explanation to the discrepancies communicated to it, it is presumed that the assessee has nothing to say in the matter.

4. Considering the above facts discussed in the show notice and discrepancies noticed and also that the assessee has not complied with the provisions of section 12AB(1)(b)(i) of the Income Tax Act, 1961 as well as the provisions of Rule 17A(2) of Income Tax Rules, 1962 in spite giving sufficient opportunities, the undersigned is unable to draw any satisfactory conclusion about the genuineness of activities of the assessee and compliance of requirements of any other law for the time being in force by the assessee as are material for the purpose of achieving its objects.

5. In view of the above, the application filed by the assessee is hereby rejected and the provisional registration granted on 22/11/2021 under section 12AB read with section 12A(1)(ac) (vi) of the Income Tax Act, 1961 is hereby cancelled."

4. From a cursory glance of the grounds of appeal raised before us, it seems that the assessee has made out a prima-facie case that it was prevented by sufficient cause for not presenting all the information timely before the learned CIT(E). We are not convinced with the grounds of rejection. For the sake of natural justice and fair play, we deem it expedient to grant one more opportunity to the assessee to present its case before the learned CIT(E). Accordingly, the matter is remanded back to the file of the learned CIT(E) for denovo adjudication and to decide the issue on merit by issuing a speaking order.

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

Order pronounced in the open Court on 06/12/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 06/12/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur