

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH KOLKATA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 2006/Kol/2024
Assessment Year: 2024-25**

The Indian Institute of Metals,

23/4, Metal House, Block AQ,

Sector – V, Salt Lake,

Kolkata - 700091

[PAN: AAATT3359D]

.....**Appellant**

vs.

Commissioner of Income Tax

(Exemption), Kolkata,

10B, Middle Ton Row,

Kolkata - 700071

..... **Respondent**

Appearances by:

Assessee represented by

: Sanjay Bhattacharya, FCA

Department represented by

: Subhendu Datta, CIT-DR

Date of concluding the hearing

: 07.11.2024

Date of pronouncing the order

: 13.11.2024

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, the appellant is aggrieved with the action of Ld. Commissioner of Income Tax (Exemption), Kolkata [in short “the Ld. CIT(E)"] has rejected the application filed by the appellant in Form No. 10AB and also cancelling the provisional certificate of registration issued to the earlier.

2. Aggrieved with this action, the appellant has approached the ITAT through following grounds of appeal:

“(1) That the Ld. Commissioner of Income-tax (Exemption), Kolkata was wrong in rejecting the appellant's Application filed for Registration u/s 12A/ 12AB.

(2) That without prejudice to the contention raised in Ground No., 1 above, the Ld. Commissioner of Income-tax (Exemption), Kolkata failed to appreciate as to under what circumstance the appellant had filed the Application for Registration u/s 12A/ 12AB as per sub-clause (vi) (B) of Clause (ac) of Section 12A(1) and thus he erred in rejecting the appellant's application.

(3) That without prejudice to the contentions raised in Grounds Nos. 1 and 2 above, the Ld. Commissioner of Income-tax (Exemption), Kolkata erred in not giving an opportunity to the appellant to submit a fresh Application after rectifying the mistakes committed in the Form No. 10AB filed earlier.

(4) That the appellant craves leave to add, modify or withdraw any Ground or Grounds of Appeal before or at the time of Hearing of the Appeal.”

3. The Ld. AR informed that the appellant was originally registered on 25.03.1947 as a Section 8 company. Thereafter, it has been carrying out activities as per its objectives. It was further informed that the appellant applied for registration by filing Form No. 10AC and asked for registration under 12A(1)(ac)(vi) of the Act. In response to this application provisional registration was granted from AY 2020-21 to 2023-24. It was averred that due to confusion in interpreting the new scheme, the appellant made an inadvertent error in mentioning a wrong section for seeking registration. It was stated that the appellant should not be made to suffer for this small mistake.

3.1 The Ld. DR relied on the order of the Ld. CIT(E) and supported his actions.

4. We have carefully perused the documents before us and considered the arguments. It is felt that the appellant should not be dealt with in this harsh manner simply because of an oversight arising due to a wrong interpretation of the new scheme of fresh registration of existing societies/trusts. Accordingly, we are persuaded to remand back this matter to the file of the Ld. CIT(E) to deal with this issue de-novo and re-examine the case on merits with a view that the appellant must not be made to suffer merely on the ground of citing a wrong section while

seeking registration. The appellant would do well to present his case appropriately before the Ld. CIT(E).

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

Order pronounced in the court on 13.11.2024

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 13.11.2024.
AK, PS

Copy of the order forwarded to:

1. The Indian Institute of Metals, Kolkata
2. Commissioner of Income Tax (Exemption), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches