

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH:COCHIN**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.199/Coch/2023
AssessmentYear:2012-13

Association for Welfare of the Handicapped AWHM Square Building Pavamani Road Calicut Kozhikode 673 001 Kerala PAN NO :AAATA3349L	Vs.	ITO Exemption Ward Kozhikode Kerala
APPELLANT		RESPONDENT

SP No.33/Coch/2023 (Arising out of ITA No.199/Coch/2023) Assessment Year: 2012-13

Association for Welfare of the Handicapped AWHM Square Building Pavamani Road Calicut Kozhikode 673 001 Kerala PAN NO : AAATA3349L	Vs.	ITO Exemption Ward Kozhikode Kerala
APPELLANT		RESPONDENT

Appellant by	:	
Respondent by	:	

Date of Hearing	:	25.11.2024
Date of Pronouncement	:	09.12.2024

O R D E R

PERPRAKASH CHAND YADAV, JUDICIAL MEMBER:

Present appeal of the assessee is arising from the order of ld. CIT(A) dated 20.1.2023 having DIN No.ITBA/NFAC/S/250/2022-23/1048950777(1) passed u/s 250 of the Income Tax Act, 1961 (in short "The Act").

2. Short facts giving rise to the filing of present appeal are that the assessee is a society registered under Society Registration Act, 1860. The assessee has got registration u/s 12A of the Act from the Income Tax Department on 19.6.1975 and claiming the benefits of section 11 & 13 of the Act. For the year under consideration, the assessee filed its return of income declaring nil income. The same was processed u/s 143(1) of the Act and thereafter selected for scrutiny. During the course of assessment proceedings, the ld. AO denied the exemption of section 11 of the Act to the assessee on the ground that the assessee could not file Form No.10 with the return of income with respect to surplus funds.

3. Aggrieved with the order of AO, the assessee preferred an appeal before the ld. CIT(A) and pointed out that the assessee has filed the Form 10 on 7.10.2013 i.e. before the completion of assessment proceedings and hence benefits of section 11 and 13 of the Act may kindly be granted to the assessee. The assessee also explained that a condonation application has also been filed before the Office of Administrative CIT. The ld. CIT(A) dismissed the appeal of the assessee on the ground that powers to condone the delay is vested with Administrative CIT and not with ld. CIT(A).

4. Aggrieved with the order of ld. CIT(A), the assessee has come up in appeal before us. On a query from the Bench as to whether the condonation application with respect to the filing of Form 10

belatedly has been decided by the Administrative CIT or not, to which the counsel of the assessee pointed out that the application is still pending as on today.

5. The Id. D.R. relied upon the orders of authorities below.

6. After considering the rival submissions, we are of the view that this appeal of the assessee is liable to be dismissed in as much as the power to condone the delay vis-à-vis filing of Form 10 for claiming the benefits of section 11 and 13 of the Act is vested with Administrative Commissioner, as per the CBDT guidelines. Therefore, the appeal is dismissed. Further, liberty is granted to the assessee that in case the administrative CIT could not condone the delay, then the assessee can explore the other legal remedies in accordance with law.

7. In the result, appeal of the assessee is dismissed.

8. Since we have already dismissed the appeal, the stay application filed by the assessee becomes infructuous and is also dismissed.

Order pronounced in the open court on 9th December, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated: 9th December, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Cochin.**