

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**“SMC” BENCH, MUMBAI**

**BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER**

**ITA No.503/M/2024**  
**Assessment Year: 2016-17**

<b>Corcon Institute of Corrosion</b> 8 T.K. Industrial Estate, Sewri, Mumbai- 400015. <b>PAN: AAFCC5627H</b>	Vs.	<b>Anil Babu</b> Income Tax Office, Exem. Ward 1(2) Mumbai.
<b>Appellant</b>	:	<b>Respondent</b>

**Present for:**

**Assessee by**

: Shri Yogendra Thakkar

**Revenue by**

: Ms. Pradnya Gholap (Sr. DR)

**Date of Hearing**

: 05.12.2024

**Date of Pronouncement**

: 10.12.2024

**ORDER**

**Per Beena Pillai, JM:**

Present appeal filed by the assessee is against the order passed by Ld. CIT(A) -4, Delhi dated 12/01/2024 for assessment year 2016-17 on following grounds of appeal:

- 1) *“The Appellate Authority erred in ignoring the Adjournment Application filed by the Appellant.*
- 2) *The Appellate Authority erred in stating that the Appellant is not interested in pursuing the appeal.*
- 3) *The Appellate Authority erred in confirming the disallowance of Rs 1,37,541/-being the expenses on the objects of Trust.*

- 4) *The Appellate Authority erred in confirming the action of the Assessing Officer rejecting the Accumulation u/s 11(2) of Rs 4,55,543/-*
- 5) *The Appellate Authority erred in stating that the Appellant did not file any reply to the Assessing Officer.*
- 6) *The Appellate Authority ignored the fact that the Appellant had filed an Application for Condonation of Delay in filing Form 10 before the CIT(E).*  
*The Appellant craves leave to add to, amend the above grounds of appeal before or during the hearing of the appeal.”*

**Brief facts of the case are as under:**

**2.** The assessee filed its return of income for year under consideration on 30/09/2016 declaring total income to be 'Nil'. The case was selected for scrutiny and notice u/s. 143(2) alongwith section 142(1) was issued to the assessee calling upon to furnish details necessary to establish the claim.

**2.1.** In response to the statutory notices, the assessee filed the audit report alongwith other statement of account. It was noted that, the assessee claimed exemption u/s. 11 of the act and that the assessee was granted registration u/s. 12AA of the act with effect from A.Y. 2015-16. The Ld.AO noted that, the requirement as per Form 10 regarding accumulation of income by setting apart was not fulfilled as the assessee failed to furnish Form 10 within the specified time period. The Ld.AO noted that, the assessee filed Form 10 on 10/08/2018 which is beyond the time limit mentioned as per section 139(1) of the act.

**2.2.** The Ld.AO, thus, after considering the submission of the assessee rejected the exemption u/s. 11(2) of the act on the



ground that assessee failed to furnish Form 10 before the due date of filing the return of income.

Aggrieved by the order of the Ld.AO assessee preferred appeal before the Ld. CIT(A) who primarily rejected the appeal of the assessee for non appearance by placing reliance on the decision of *Hon'ble Delhi Tribunal* in case of *CIT vs. Multiplan India Pvt. Ltd. reported in 38 ITD 320*.

The Ld. CIT(A) thereafter decided the assessee on merits by folding the view taken by the Ld.AO.

Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld. CIT(A).

**3.** The Ld.AR submitted that, Form 10 was duly submitted to the Ld.AO during the assessment proceedings and as per the Circular No. 7/2018 dated 28/12/2018 obliged the assessing authority to examine the reasonable cause that prevented the assessee from filing the Form 10 electronically. The Ld.AR submitted that, the assessee's appeal may be considered in the light of the Circular No.7/2018 dated 28/12/2018 issued by the CBDT.

**3.1.** It is submitted that, the assessee filed the application for registration originally u/s. 12AA in Form 10A on 04/10/2014 alongwith the requisite details as called for. However, the said application for registration u/s. 12AA was rejected vide order dated 30/06/2015. The Ld.AR submitted that, the assessee contested the rejection before this *Tribunal* and this *Tribunal* vide

order dated 19/09/2016 restored the matter back to the file of the Ld. CIT(E) to consider the application u/s. 12AA *denovo*. As a consequence, the application dated 04/01/2024 stood revile and the assessee was granted u/s. 12AA registration vide order dated 23/05/2017 with effect from A.Y. 2015-16.

**3.2.** It is submitted that, under the above circumstances there was a delay in filing Form 10 for the year under consideration as during the relevant period assessee did not have a registration u/s. 12AA of the act and therefore Form 10 could not have been filed.

**3.3.** On the contrary the Ld.DR relied on orders passed by authorities below.

I have perused the submissions advanced by both sides in light of records placed before us.

**4.** In my considered opinion there is a reasonable cause made out by the assessee for the delay caused in filing Form 10. It is also noted that, the assessee has furnished an application seeking condonation of delay in filing Form 10 before the CBDT and which is pending.

**4.1.** Considering the circumstances that prevailed, I remit this issue back to the Ld. CIT(E) to consider the claim of assessee based on the circulars issued and the view adopted by the competent authority in respect of pending condonation petition. Needless to say that proper opportunity of being heard must be granted to assessee.



**Accordingly the grounds raised by the assessee stands allowed for statistical purposes.**

**In the result the appeal filed by the assessee stands partly allowed for statistical purposes.**

**Order pronounced in the open court on 10-12-2024.**

**Sd/-  
BEENA PILLAI  
JUDICIAL MEMBER**

Place: Mumbai,

Dated: 10.12.2024

*Snehal C. Ayare, Stenographer/ Dragon*

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent
3. Ld.DR, ITAT, Mumbai
4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**