

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं**  
**माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER**

**आयकरअपील सं./ ITA No.2449/Chny/2024**

Sri Ramajayam Educational Trust,  
No.152, Thirumangalaiwar Street,  
Sriperumbudur,  
Kanchipuram 602 105.

**Vs.** The Commissioner of Income Tax  
(Exemption)  
Chennai.

**[PAN: AAPTS 2772N]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri R.S.Balaji and P.R.Balachander,  
Advocates

प्रत्यर्थी की ओर से /Respondent by

: Ms. C. Vatchala, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 09.12.2024

घोषणा की तारीख /Date of Pronouncement

: 10.12.2024

**आदेश / O R D E R**

**PER MANU KUMAR GIRI (Judicial Member)**

Aggrieved by rejection of application filed in Form No.10AB on 02.01.2024 for seeking approval under clause (ii) of first proviso to section 10(23C) of the Income Tax Act, 1961 ('ACT' in short) vide impugned order dated 27.06.2024, the assessee is in appeal before us. The registry has noted a delay of 28 days in the appeal, the condonation of which has been sought by Ld. AR on the strength of affidavit of Managing trustee of the assessee trust. We have perused the reasons and condoned the delay. The appeal is admitted for adjudication.

2. It has been stated that the application was rejected on the ground that the assessee ought to have applied under clause (iii) of first proviso to Section 10(23C) but it wrongly applied under clause (ii). However, while processing the application filed in Form No.10AB on 02.01.2024, the Id.CIT(E) noticed from the assessee's Form 10AC that the applicant has been granted provisional approval (fresh approval) for the approval period from AY 2024-25 to AY 2026-27. Therefore, the Id. CIT(E) held that the applicant / assessee ought to have filed its application under clause (iii) of the first proviso to section 10(23C) but the applicant has erroneously filed its present application in Form 10AB seeking approval under clause (ii) of the first proviso to section 10(23C) which covers the cases of trusts which are already approved and seeking re-approval. Hence the Id.CIT(E) held the present application under clause (ii) of the first proviso to section 10(23C) seeking approval is prima-facie non-maintainable.

3. As is evident, the assessee was been granted provisional approval from approval period from AY 2024-25 to AY 2026-27. The Ld. CIT(E) held that application filed under Clause (ii) would not be maintainable since the application was to be filed in Clause (iii) in assessee' case. Aggrieved, the assessee is in further appeal before us.

4. We find that the application has been rejected merely on technical ground. It is clear that the assessee had obtained provisional approval and it sought permanent registration. By inadvertent mistake, the assessee preferred application under wrong Clause (ii) instead of Clause (iii). The assessee ought to have been granted an opportunity to rectify the same but in this case none. We also note that

the Id. CIT(E) vide impugned order dated 27.06.2024 (near fag end of 30.06.3024) advised the assessee to file fresh application in the light of the CBDT Circular No.07/2024 dated 25.04.2024 extending the due date for filing Form 10AB from 30.09.2023 to 30.06.2024. We find that from 02.01.2024 i.e; the date of filing application in Form No.10AB till date of impugned order dated 27.06.2024, assessee has not been granted an opportunity to correct the mistakes well within the time period of 30.06.2024 which clearly violates principle of natural justice. Hence, we direct Ld. CIT(E) to treat the present application under clause (ii) of the first proviso to section 10(23C) filed on 02.01.2024 as filed under clause (iii) of the first proviso to section 10(23C) and consider the same on merits. The assessee is directed to substantiate its application. The appeal stand allowed for statistical purposes.

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

Order pronounced in the open court on 10th day of December, 2024.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai:

दिनांक Dated :10-12-2024

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आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

**न्यायिक सदस्य / JUDICIAL MEMBER**