

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'B': NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.3012/Del/2024
[Assessment Year: 2022-23]**

Udgam Charitable Trust, 701, Ashadeep Building, New Delhi-110001	Vs	CIT(Exemption), Civic Centre, Minto Road, New Delhi-110002
PAN-AABRU0930G		
Assessee		Revenue

Assessee by	None
Revenue by	Ms. Nidhi Singh, CIT-DR

Date of Hearing	30.10.2024
Date of Pronouncement	13.12.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of Ld. CIT(Exemption), Delhi, dated 26.04.2024 pertaining to Assessment Year 2022-23.

2. The grounds of appeal raised by the assessee reads as under:-

"1. Because on the facts and the circumstances of the case the Ld. CIT(E) has rejected the registration solely on the ground that the appellant has made the registration under the wrong section. The operative para of the impugned order is reproduced herein as –

"6. In view of the facts discussed above, the applicant obtained certificate by wrongly selecting the clause i) got regular registration w/s 12A(I)(ac)(i) for the period from A.Y. 2022-23 to A.Y. 2026-27 therefore, application in Form 10AB filed in Form IOAB under Sub-Clause (ii) of Clause (ac) of first proviso to sub-section(I) of section 12A of the Act is hereby rejected.

7. Further, registration order issued in Form IOAC vide registration number AABTU0930GE20214 for registration u/s 12A(I)(ac)(i) for the period from A.Y. 2022-23 to A.Y. 2026-27 is also hereby cancelled."

This action of the Ld. respondent is completely unjustified as the selection of wrong sub-head is a clerical mistake and this defect can be cured manually. For the purpose to rectify this mistake, the appellant has submitted (ref. Annexure - 5, Pg 25) the submission to the Ld. CIT(E) to rectify this defect which was neither accepted nor rejected.

Relief claimed: to kindly allow the registration u/s 12AB from A Y 2022-23 or allow the appellant to rectify the clerical mistake.

2. Because on the facts and the circumstances of the case the ld. CIT(E) while rejecting the registration has erred in giving the effect to the circular 07/2024 dated 25.04.2024 issued by the CBDT regarding the extension of the due date for filing form 10A/ 10AB. As per the circular, all the applications via form IOAB as pending before the issuance of this circular be treated as a valid application. The relevant portion of the circular is reproduced herein as:

"4. It may be also noted that extension of due date as mentioned in paragraph 3(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of sub-section

(1) of section 12A or under clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be. Hence, in cases where any trust, institution or fund has already made an application in Form No.10 AB under the said provisions on or before the issuance of this Circular, and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. 10 AB may be treated as a valid application.

Relief claimed: The action of not providing the circular effect as issued by the Ld. CBDT is wholly unjust and against the statute which is against the principle of natural justice and shall liable to be quash.

3. Because on the facts and the circumstances of the case, the appellant is relying on various judgments as passed by the Hon'ble ITAT on the similar issue which shall be submitted at the during the submission.

Relief Claimed: To kindly allow the appellant to submit the case laws compilation as relied upon at the time of hearing.

2. The assessee in this appeal has contested the action of the Ld. CIT(Exemption), in rejecting the application of the assessee for registration u/s 12AB(1)(b)(ii)(B) of the Act vide order dated 26.04.2024.

2.1. The assessee had filed an application dated 26.10.2023 in Form 10AB for registration u/s 12A(1)(ac)(ii) of the Act. The assessee was issued a questionnaire dated 19.12.2023 to furnish details in support of its registration application. On perusal of the details, the ld. CIT(Exemption) held that the assessee was incorporated on 18.09.2020 and had obtained order for regular registration in Form No.10AC issued on 31.05.2021 under sub-clause (i) of clause (ac) of sub-section (1) of section 12A for the period AY 2022-23 to AY 2026-27 by furnishing inaccurate particulars by wrongly selecting the clause (i) u/s 12A(1)(ac)(i) of the Act and getting regular registration u/s 12A(ac)(i) of the Act for the period AY 2022-23 to AY 2026-27. In view of this fact, the ld. CIT(Exemption) rejected the application of the assessee filed in Form 10AB under sub-clause (ii) of Clause (ac) of first proviso to sub section (1) of the section 12A of the Act was rejected. The Ld. CIT(E) further cancelled the registration order issued in Form 10AC vide registration no.AABTU0930GE20214 u/s 12A(1)(ac)(i) for the period AY 2022-23 to AY 2026-27. The relevant findings of the ld. CIT(E) in para no.5 to 7 of his order is reproduced as under:-

“5. From the perusal of Form 10AB filed, it is observed that the Trust/Society/Company was incorporated on 18.09.2020 and has obtained order for regular registration in Form No. 10AC issued on 31.05.2021 under sub-Clause (i) of clause (ac) of sub-section (1) of section 12A for the period from A.Y. 2022-23 to AY 2026-27 by furnishing inaccurate particulars.

6. In view of the facts discussed above, the applicant obtained certificate by wrongly selecting the clause i) got regular registration u/s 12A(1)(ac)(i) for the period from A.Y. 2022-23 to A.Y. 2026-27 therefore, application in Form 10AB filed in Form 10AB under Sub-Clause ii) of Clause (ac) of first proviso to sub-section(1) of section 12A of the Act is hereby rejected.

7. Further, registration order issued in Form 10AC vide registration number AABTU0930GE20214 for registration u/s 12A(1)(ac)(i) for the period from A.Y. 2022-23 to A.Y. 2026-27 is also hereby cancelled.

3. Against the above order, the assessee is in appeal before the Tribunal. None appeared on behalf of the assessee. This appeal is being decide on the basis of statement of facts, grounds of appeal and documents filed during the appeal proceedings.

4. During the course of hearing, it was noticed from the statement of facts filed by the assessee that during the registration proceedings before the ld. CIT(E), it came to know that it had made the provisional registration application under wrong sub-section, which was a rectifiable clerical mistake. It emerges that the assessee had filed the registration application under section 12A(1)(ac)(i) of the Act, whereas the correct section was 12A(1)(ac)(vi) of the Act. In this regard, the assessee made a submission on 11.04.2024 to ld. CIT(E) to kindly exempt this rectifiable clerical mistake. Further, the Ld. AR relied upon Circular No.7 dated 25.04.2024 of CBDT, wherein, extension of due date of filing form 10A/10AB was extended upto 30.06.2024 and had also given exemption to those trust, which had filed the registration under wrong sub-section code. It is further submitted that the Ld. CIT(E) without giving effect of the Circular preferred to pass the impugned order on 26.04.2024 rejecting the registration solely on the grounds that the assessee had made the registration under wrong sub-section. In view of this it was

submitted that the order dated 26.04.2024 of the Ld. CIT(E) rejecting the application may be set-aside and the matter may again be restored to the file of the Ld. CIT(E) to consider the application dated 11.04.2024 of the assessee and the Board Circular No.7/2024 dated 25.04.2024 and to pass a fresh order in this regard.

5. On the other hand, the ld. DR relied upon the order of the Ld. CIT(E). However, he fairly stated that the matter may be set-aside to the file of the Ld. CIT(E) as requested by the assessee.

6. We have heard the ld. DR and perused the material available on record. In this case, the Ld. CIT(E) has rejected the application of the assessee without considering the application dated 11.04.2024 requesting for rectifying its mistake in making the application for registration under the wrong section. Further, a day prior to the rejection order, dated 26.04.2024 of the Ld. CIT(E), the CBDT vide Circular No.7/2024 had extended the due date of filing of return in Form No.10A/10B under the Act up to 30.06.2024 in cases where the application was rejected solely on account of the fact that the application was furnished after the due date or that the application was furnished under wrong section code. In view of the above facts, we set aside the order dated 26.04.2024 of the ld.CIT(E) and direct him to decide the application of the assessee afresh after giving proper and adequate opportunity to the assessee to present its case and also taking into account the application dated 11.04.2024 filed by the assessee for rectification of the mistake in filing the application under the wrong section and the CBDT Circular No.7 of 2024 dated 25.04.2024.

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

Order pronounced in the open court on 13th December, 2024.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 13.12.2024.

Shekhar

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT(E)
4. DR

Asst. Registrar,
ITAT, New Delhi,