

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2102/PUN/2024
निर्धारण वर्ष / Assessment Year : 2024-25

Shriman Sampatlal Premraj Surana Charitable Trust, 546, Manmad Bhagwan Mahavir Path, Nandgaon, Nashik- 423104. PAN : AAPTS4358E	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Abhay Avachat
Revenue by : Shri Basavaraj Hiremath

Date of hearing : 09.12.2024
Date of pronouncement : 17.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 09.08.2024 passed by Ld. CIT, Exemption, Pune rejecting the application for approval u/s 80G of the IT Act.

2. The appellant has raised the following grounds of appeal :-

"1. The learned CIT (Exemption), Pune has erred in rejecting application for registration / renewal filed by Assessee trust under first proviso to section 80G(5)(iii) of the Income Tax Act, 1961 by passing order dated 9th August 2024.

2. *Without considering the facts and circumstances of the case and the law, the ld. CIT Exemption has erred in rejecting assessee's application for registration / renewal.*
3. *The order of rejection has been passed without considering submission and explanation filed by the assessee and thus suffers from infirmity.*
4. *The Order passed by the CIT Exemption, Pune rejecting the assessee's application is not in keeping with provisions of law, is bad in law and thus the same needs to be set aside.*
5. *The ld. CIT Exemption erred in law and on facts in cancelling the provisional registration granted on 31/08/2021 without following the due process of law and without affording opportunity of hearing to the appellant.*
6. *The ld. CIT Exemption erred in law and on facts in cancelling the provisional registration granted on 31/08/2021 in absence of any dissatisfaction about genuineness of activities of the appellant.*
7. *The CIT erred in concluding that the assessee is neither regularly registered u/s 12AB read with section 12A(1)(ac)(i) / 12A(1)(ac)(iii) nor having regular approval under section 10(23C) read with clause (i) / (iii) of first proviso to the said section and in treating it as an unregistered entity.*
8. *The Assessee prays for any other relief may be allowed to the Assessee under provisions of income tax law.*
9. *The assessee craves leave to add, alter, amend, modify, delete any of the grounds of appeal."*

3. Facts of the case, in brief, are, that the assessee is a trust filed its application for registration in Form No.10AB under clause (iii) of first proviso to sub-section (5) of section 80G of the IT Act on 12.02.2024. With a view to verify the genuineness of the activities of the assessee and fulfilment of conditions laid down in clause (i) to (v) of section 80G(5) of the IT Act, a notice was issued through ITBA portal on 03.05.2024 requesting the assessee to upload certain information/clarification on or before 20.05.2024. The assessee in

response to above notice furnished desired information as mentioned in the notice. After verifying these details, Ld. CIT, Exemption, Pune found certain discrepancies and asked for their clarification on or before 05.08.2024. Since the assessee did not comply to this notice and has not furnished any explanation in reply to the above notice and also in the light of the fact that the application of the assessee in Form No.10AB for registration u/s 12AB filed under the provisions of section 12A(1)(ac)(iii) of the IT Act has already been rejected vide order dated 09.08.2024, Ld. CIT, Exemption was of the opinion that the condition (i) of section 80G(5) of the IT Act is not fulfilled, accordingly the application filed by the assessee was rejected and the provisional approval granted on 31.08.2021 under clause (iv) to first proviso to section 80G(5) of the IT Act was also cancelled. It is this order against which the assessee is in appeal before this Tribunal.

4. When the appeal was called for hearing, none appeared on behalf of the appellant-assessee nor any application for adjournment was filed despite due service of notice of hearing. Accordingly, we proceed to decide the appeal on merits after hearing Ld. DR and on the basis of material available on record.

5. Ld. DR appearing from the side of the Revenue relied on the order passed by Ld. CIT, Exemption, Pune and requested to confirm the same. However, he pointed out that in the case of same assessee another appeal in ITA No.2095/PUN/2024 was heard on 05.12.2024 involving the issue of rejection of 12A registration application wherein the Bench has set-aside the order passed by Ld. CIT, Exemption and remanded the matter back to the file of Ld. CIT, Exemption for deciding the issue afresh on merits of the case after providing reasonable opportunity of hearing to the assessee.

6. We have heard Ld. DR and perused the material available on record. We find that the Co-ordinate Bench of this Tribunal (involving similar combination of Members) in assessee's own case in ITA No.2095/PUN/2024 order dated 09.12.2024 has already remanded the matter involving the issue of 12A registration back to the file of Ld. CIT, Exemption to decide the issue afresh. Accordingly, in the instant case also we deem it appropriate to set-aside the *ex-parte* order passed by Ld. CIT, Exemption, Pune and remand the matter involving the issue of 80G registration, back to him with a direction to decide the issue afresh as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued

by Ld. CIT, Exemption, Pune in this regard and produce requisite documents/evidences in support of grounds of appeal without taking any adjournment under any pretext, otherwise Ld. CIT, Exemption, Pune shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

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

Order pronounced on 17th day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 17th December, 2024.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT, Exemption, Pune.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.