

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'B', CHANDIGARH

**BEFORE SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER
& SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

आयकर अपील सं./ **ITA No. 661/CHD/2024**
निर्धारण वर्ष / Assessment Year : 2018-19

Punjab Agriculture University, Thapar Hall, Ferozepur Road, Ludhiana	Vs. बनाम	Dy. Commissioner of Income Tax (Exemptions), Chandigarh
स्थायी लेखा सं./PAN No: AAABP0216H		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

&

आयकर अपील सं./ **ITA No. 492/CHD/2024**
निर्धारण वर्ष / Assessment Year : 2019-20

Punjab Agriculture University, Thapar Hall, Ferozepur Road, Ludhiana	Vs. बनाम	Dy. Commissioner of Income Tax (Exemptions), Chandigarh
स्थायी लेखा सं./PAN No: AAABP0216H		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(Hybrid Hearing)

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate,
राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT DR

सुनवाई की तारीख/Date of Hearing : 09.12.2024
उदघोषणा की तारीख/Date of Pronouncement : 18.12.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in these cases have been filed by the Assessee
against the order dated 09.05.2022 for assessment year 2018-19 order

dated 26.03.2022 and for assessment year 2019-20 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. At the very outset, it is observed that appeals in both the assessment years i.e., 2018-19 and 2019-20 are late by 691 and 671 days respectively. The Id. Counsel for the Assessee has filed a written submissions explaining the reasons for delay along with an affidavit which is reproduced as under:-

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Purchased by	: SHAMMI KAPOOR 2424 0835 6737
Description of Document	: Article 4 Affidavit
Property Description	: Not Applicable
Area of Property	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: PUNJAB AGRICULTURAL UNIVERSITY
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AFFIDAVIT

I, Shammi Kapoor S/o Sh. Om Parkash Kapoor R/o 6/11, Punjab Agricultural University, Campus, Ludhiana do hereby solemnly state and affirm as under:-

1. That I have been employed in Punjab Agricultural University, Ludhiana since July 1992 and for the past over one year holding the Additional charge as 'Comptroller' of the Punjab Agricultural University, Ludhiana
2. That certain appeals for Asstt. Year 2018-19 and 2019-20 have been filed before the Hon'ble ITAT, Chandigarh Bench, Chandigarh and which are late as under:-

Asstt. Year 2018-19

- a). Order passed by the Ld.CIT (A) on 09.05.2022
- b). The appeal was to be filed on or before 08.07.2022
- c). The appeal was filed on 29.05.2024
The appeal is late by 691 days

Asstt. Year 2019-20

- a). Order passed by the Ld.CIT (A) on 26.03.2022
- b). The appeal was to be filed on or before 25.05.2022
- c). The appeal was filed on 30.04.2024
The appeal is late by 706 days

3. That in Punjab Agricultural University, mainly the faculty consists of Scientists, Professors and have no knowledge of Income Tax matters or any other issue relating to Income Tax & other allied Tax matters.
4. That we had appointed CA, D.P. Singh as our consultant for looking after the entire Income tax related matters on 21.10.2009 as per evidence enclosed at page 5 of Paper Book-A and since then, he had been entrusted with the task of all Income Tax Matters, including filing of returns, appeals and to attend to all the proceedings relating to Income Tax matters of PAU.
5. That we had appointed M/s Sudhir K. Sehgal & Associates, 172-A, Tagore Nagar, Ludhiana as our counsel on 18.06.2024 since we became aware of



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the fact that CA, D.P. Singh had been found to be misleading us in connection with the 'Tax matters', due to which, our appeals for Asstt. Year 2018-19 and 2019-20 had been delayed considerably.

6. That we received a call from the office of Commissioner of Income Tax (Exemptions), Chandigarh in April 2024 regarding the huge arrears demands outstanding for Asstt. Year 2018-19 and 2019-20.
7. That, when we confronted these facts to CA, D.P. Singh, he then haphazardly filed the appeals before the Hon'ble ITAT, Chandigarh Bench, Chandigarh for Asstt. Year 2018-19 and 2019-20, though, we have been following him about the "arrears demands" and also about "status of appeals" as is evident from following facts:-
 - i). That the orders for Asstt. Year 2018-19 and 2019-20 were received by Accounts Branch/Comptroller Office and which were immediately forwarded to CA, D.P. Singh for taking suitable action and thereafter, we were under the bonafides belief that he would have taken the appropriate measures.
 - ii). That we sent a e-mail to CA D.P. Singh about adjustment of refund for AY 2022-2023 against certain outstanding demand on 27th June and again on 6th July, 2023, 23rd October, 2023 & on 25th October regarding "status of appeals" as per pages 8 to 11 of Paper Book-A.
That CA. D.P. Singh was not responding, then a letter dated 26.10.2023 was delivered to his office, which is placed at page 12 of the Paper Book, enquiring from him about the various demands and also current status of appeal.
 - iv). That we received an e-mail, dated 02.11.2023 from CA, D.P. Singh, as per page 13 of Paper Book-A in which, he stated that, "all the material have been accepted and the appeal is finalized in favour of revenue. But again written that appeal of the assessee is allowed and further, the Income Tax department has written to CIT (A) for clarification".
 - v). That again we sent various e-mails asking for "current status of appeals", which is evident from e-mail sent on 08.11.2023 and 10th November, 2023, evidence placed at page 13 to 15 of Paper Book-A. Then, even the matter was also brought to the Hon'ble



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Vice Chancellor, PAU, Ludhiana regarding the above issues of pending appeals and conduct of CA D.P. Singh as per page 16 of Paper Book-A.

- vi). That the meeting was held with CA D.P. Singh in the office & in the presence of Hon'ble Vice Chancellor on 10.01.2024 at PAU as per evidence placed at page 17, wherein, CA, D.P. Singh again assured that all the income tax related matters have been clarified and he said that he will revert back soon.
- vii). That again we had sent different e-mails on 31.01.2024, 15.02.2023, 04.03.2024 and 20.03.2024 about the current status of appeal but there was no response from CA, D.P. Singh as per evidence at page 18 to 21 of Paper Book-A.
- viii). That again we had fixed a meeting on 12.04.2024, which was not attended by CA, D.P. Singh and then again another letter was written on 12.04.2023, evidence placed at pages 22 to 23 of the Paper Book regarding scheduling of the meeting on 16.04.2024 at office of DCIT (Exemptions) at Chandigarh.
- ix). Then on 16th April, 2024, Sh. Sanjeev Kumar and Sh. Dhiraj Kumar, Both Assistant Account Officers alongwith CA D.P. Singh met the DCIT (Exemptions) at his office on 16th of April, 2024 and only then we come to know that no appeals had been filed for Asstt. Years 2018-2019 & 2019-2020 before the Hon'ble ITAT, Chandigarh and when, we confronted the same to CA, D.P. Singh, he haphazardly filed the appeals for Asstt. Year 2019-20 on 30.04.2023 and again when we received a notice for payment of demand vide notice, dated 24.05.2024, from the DCIT (Exemptions), we again confronted him and then he filed the appeal for Asstt. Year 2018-19 on 29.05.2024.
8. That it is very humbly submitted that we have been misled by CA, D.P. Singh as is evident from various communications and, as such, it is only when we got a call from the office of DCIT (Exemptions) & we visited the office of DCIT (Exemptions) at Chandigarh that, we came to know that no appeals had been filed and, thus, the delay in filing the appeals was not on our part as per facts stated above.



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9. That immediately, thereafter, we appointed M/s Sudhir K. Sehgal & Associates, 172-A, Tagore Nagar, Ludhiana as our consultant vide order, dated 18.06.2024.
10. That in view of above, the delay in filing appeals be condoned.

Certified that the affidavit S.P.A./G.P.A. has been readover & explained to the deponent; executant who seemed properly to understand the same at the time making above there of

VERIFICATION:-

That the contents of the above affidavit are true to the best of my knowledge and belief and nothing has been concealed therein.


DEPONENT

(SHAMMI KAPOOR)

ATTESTED AS IDENTIFIED


NOTARY PUBLIC, I.D.P.

18 SEP 2024


DEPONENT

(SHAMMI KAPOOR)



3. The Id. Counsel of the Assessee has also brought it on record that it was only when a recovery letter dated 09.04.2024 for the Assessment Year 2019-20 and another recovery letter dated 24.05.2024 for Assessment years 2018-19 and 2019-20 was received

from the DCIT (Exemption), Chandigarh for the pending demand that the assessee confronted this fact to their C.A., D.P. Singh with the factual issues and then he hurriedly filed the appeal for both the years and thereafter, his services was terminated and new Counsel was engaged and all this happened because of the fact that the accounts branch and Comptroller office were not having any knowledge of the Income Tax matters and were solely dependent upon the C.A., D.P. Singh and the assessee had placed before us in Paper Book, documentary evidence of the various emails, letters and other correspondence with the C.A., D.P. Singh and C.A., D.P. Singh had confirmed to them that the appeals are pending and the matter is being resolved and which fact the assessee became aware only when the recovery notices were received for the first time from the office of the DCIT (Exemption) Chandigarh.

4. The assessee also relied upon the judgments of various Courts in which, following the judgment of the Apex Court, it has been held that the delay should be condoned where the assessee has a reasonable cause and also that if there is a mistake of the counsel that is a good reason for condonation of delay. Reliance has been placed on following judgments:

- *Judgment of Hon'ble Supreme Court in the case of Esha Bhattacharjee vs. Managing Committee of*

Raghunathpur Nafar Academy & Others (Civil Appeal Nos. 8183-818 of 2013).

- *Manoj Ahuja (Minor) & ANR vs. Inspecting Assistant Commissioner reported in 150 ITR 696.*
- *CG Paul & Co. vs. Income Tax Officer, ITAT Cochin Bench reported in 52 ITD 276.*
- *Income Tax Officer vs. Meghalaya Bonded Warehouse, ITAT Gauhati Bench, Reported in 60 ITD 219.*
- *Judgment of ITAT Chandigarh Bench in the case of HP Cricket Association in ITA Nos. 110 & 111/Chd/2004.*
- *Sudeshan Auto & General Finance vs. Commissioner of Income Tax, ITAT, Delhi-B Bench, Reported in 60 ITD 177.*
- *Gurfateh Films & Sippy Grewal Productions Pvt. Ltd. vs. CIT (2022) 95 ITR Trib. 456 ASR-Tribunal*
- *Shri Mukesh Mittal vs. Dy. Commissioner of Income Tax ITA Nos. 1187 & 1213/Chd/2018 (Chd-Trib.).*
- *Chirag P. Thummar vs. Principal Commissioner of Income Tax [2024] 159 taxmann.com 1628 (Surat Trib.).*

5. The Ld. CIT DR contended that the matter has been decided on the basis of the documents furnished by the assessee and to which the assessee reiterated again the above arguments.

6. We have considered the arguments of both the parties and have also carefully gone through the Affidavit of the Comptroller of the University coupled with the documentary evidences as furnished

before us with regard to the exchange of emails by the assessee to the C.A., D.P. Singh and vice versa and after going through the various emails, it is clearly borne out that the counsel concerned of the university at that time had misled them that their appeals were pending and it is only when the recovery notices were received by the PAU, from the DCIT (Exemption), Chandigarh in April and May, 2024 that the university authorities came to know that the appeals have not been filed by their C.A., D.P. Singh and, also considering the facts and circumstances of the case that the officials of the universities have no tax background and they were made to believe by the C.A., D.P. Singh that their appeals are pending. Reference was also made to the judgment of Hon'ble Supreme Court in the case of 'Esha Bhattacharya vs. Managing Committee of Raghunathpur Nafar Academy and Others' in Civil Appeals Nos.. 8183-8184 of 2013 order dated 13.09.2013, wherein, it has been held as under:

*The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice, for that is the life-purpose for the existence of the institution of courts. The learned Judges emphasized on adoption of a liberal approach while dealing with the applications for condonation of delay as ordinary a litigant does not stand*to benefit by lodging an appellate and refusal to condone delay can result in a meritorious matter being thrown out at the very threshold and the cause of justice being defeated."*

8. Keeping in view of the above said facts and the case laws as discussed above, the delay of 691 days and 706 days in both the Assessment years i.e., 2018-19 & 2019-20 are condoned.

9. On the merits of the addition, the Assessee has taken following grounds of appeal in assessment year 2018-19:

1. *That the Ld. Commissioner of Income Tax (A), NFAC, Delhi has erred in dismissing the appeal of the assessee and disallowing the benefit of exemption as claimed by the assessee to the tune of Rs. 2,52,59,62,004/-.*
2. *That the Ld. CIT(A), NFAC, Delhi having admitted the fact that the assessee is entitled to exemption u/s 10(23C) (iiab) but due to wrong mentioning of the section by the CA, D.P. Singh, while filing the return of the assessee and the same should not have disallowed the.*
3. *That the Ld. CIT(A) having accepted that the assessee is covered under the ambit of section 10(23C) (Hi ab) but only on the basis of mistake of the counsel in filling the correct section while filing the return of income, has not allowed the said deduction and which is against the facts and circumstances of the case.*
4. *That the said exemption u/s 10(23C) (iiiab) having not been allowed only on the basis of mistake of the concerned Authorized Counsel of the assessee, a qualified Chartered Accountant, the assessee should not have suffered as per the binding*

judgment of Hon'ble Punjab & Haryana High in the case of Manoj Ahuja (Minor) and ANRs. as reported in 150 ITR 696 (P&H) and other case laws.

5. *That the Ld. CIT(A) should have allowed that said deduction on the basis of CBDT Circular No. 14, of 1955, which has been considered in the judgment on the similar issue of such bonafides mistake by the counsel as per the judgment of CIT (International Taxation), Vs. Heidrick and Struggles Inc. (2024) 461 ITR 33 (Del.) and also of Chandigarh Bench in the case of Nikka Mal in ITA Nos. 1252 to 1255/Chd/2016 & Others.*
6. *That the appellants crave leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

10. For the Assessment Year 2018-19, since the assessee's counsel had wrongly mentioned the relevant clause of 10(23C) and, therefore, the CPC vide order dated 20.03.2020 disallowed the exemption claimed by the assessee and thereafter, the case was taken up under scrutiny and during the course of scrutiny assessment, the assessee by way of letter dated 27.01.2021 has contended that the assessee's income is unconditionally exempt from Income Tax under Section 10 (23C)(iiiab) of the Income Tax Act, 1961 but the Assessing Officer based on the order u/s 143(1) confirmed the disallowance as made by the Assessing Officer.

11. The same issue was there before the ld. CIT(A) and the ld. CIT(A) in a detailed order at page 10 of the order mentioned that the assessee is entitled to claim the exemption u/s 10(23C) (iiiab) but then he upheld the disallowance as made u/s 143(3) and 143(1) even though in the last line of the order, he mentioned that the appeal is allowed.

12. The ld. Counsel of the assessee argued vehemently that it is just a bonafide error on the part of the counsel of the assessee who did not mention correct section/sub-clause for the purpose of claiming the exemption which the assessee is otherwise entitled to and relied upon the judgment of Hon'ble Delhi High Court in the case of CIT vs. Heidrick and Struggles Inc. as reported in [2024] 461 ITR 33 in which after relying upon the Circular of CBDT No. 19 of 1955 wherein, it has been held that in the matter of claiming and securing relief, the officers of the department should take the initiative in guiding the taxpayer for claiming relief wherever it is due even if, the assessee may have inadvertently omitted to claim the same have been in the return of income. The assessee also relied upon the Judgment of the Hon'ble Chandigarh Bench of ITAT in the case of Habrol Cooperative Agricultural Services Society in ITA No. 158/Chd/2024 (Chd. Trib.) in which similar facts were there wherein, the deduction was wrongly made under wrong section and the same was disallowed by the CPC/Assessing Officer and the ITAT after relying upon the judgment of

the Delhi High Court as cited supra allowed the said deduction. Further, reliance was also placed by the assessee in the following judgments:

National Contracting Company Pvt. Ltd. vs. DCIT as reported in ITA No. 455/Chny/2024

S R Koshti vs. CIT reported in [2005] 2761 ITR 165 C ujarat High Court

ACIT vs. M/s. Nikkamal Jewellers as reported in [2017] 59 ITR (Trib.) 0116 (Chandigarh).

13. The ld. CIT DR relied upon the order of the Assessing Officer and of the ld. CIT(A).

14. We have considered the submissions of both the parties and carefully gone through the various judgments cited above. It is a fact not denied by the ld. CIT(A) that the assessee is entitled to deduction u/s 10(23C) (iiiab) and the said findings of the ld. CIT(A) is reproduced as under:

"The taxpayers fall into the category of university substantially financed by the Government and is covered under the ambit of Section 10(23C)(iiiab)."

15. Further, in last paragraph in page 10, the Ld. CIT(A) has mentioned as under:

"But on going through the provisions of the Act, it is seen that the taxpayer falls under the category of Government Financed University and the income

accrued to the university is exempt in the hands of person as per Section 10(23C)(iiiab)"

16. Thus, it is an undisputed fact that the assessee is entitled to exemption u/s 10(23C)(iiiab) and it is only the mistake of the counsel wherein, while filing the return of income, wrong sub clause of section 10(23C) has been mentioned and similar facts were there in the case of the Habrol Cooperative Agricultural Society as cited supra wherein, wrong sub clause namely 80P(2)(c) was mentioned in the return form for claiming the deduction instead of deduction to be claimed u/s 80P(2)(a)(i) and by following the same facts & circumstances as in the present case, it was held as under:

10. Further, we have considered the case laws brought on record by the Id. Counsel of the Assessee and we find that there are number of case laws supporting view that in case there is a mistake by Assessee for claiming legitimate deduction, the Assessing Officer is duty bound to consider such legitimate deduction to the Assessee even if it was not claimed or claimed under wrong sections. Accordingly, we do not find any justification in the findings given by the Addl/JCIT (A) and so it cannot be sustained, thus Assessee's appeal on this issue is allowed.

17. Thus, following the above said judgment, the assessee's appeal for claim of deduction u/s 10(23C)(iiiab) of the Income Tax Act, 1961 stands allowed.

ITA No. 492/Chd/2024: (A.Y. 2019-2020)

18. The assessee has taken the following grounds of appeal for assessment year 2019-20:

1. *That the Ld. Commissioner of Income Tax (A), NFAC, Delhi has erred in dismissing the appeal of the assessee and disallowing the benefit of exemption as claimed by the assessee to the tune of Rs. 5,30,26,31,567/-*
2. *That the Ld. CIT(A), NFAC, Delhi having admitted the fact that the assessee is entitled to exemption u/s 10(23C) (iii ab) but due to wrong mentioning of the section by the CA, D.P. Singh, while filing the return of the assessee and the same should not have disallowed.*
3. *That the Ld. CIT(A) having accepted that the assessee is covered under the ambit of section 10(23C) (iii ab) but only on the basis of mistake of the counsel in filling the correct section while filing the return of income, has not allowed the said deduction and which is against the facts and circumstances of the case.*
4. *That the said exemption u/s 10(23C) (iiiab) having not been allowed only on the basis of mistake of the concerned Authorized Counsel of the assessee, a qualified Chartered Accountant, the assessee should not have suffered as per the binding judgment of Hon'ble Punjab & Haryana High in the case of Manoj Ahuja (Minor) and ANRs. as reported in 150 ITR 696 (P&H) and other case laws.*
5. *That the Ld. CIT(A) should have allowed the said deduction on the basis of CBDT Circular No. 14, of*

1955, which has been considered in the judgment on the similar issue of such bonafides mistake by the counsel as per the judgment of CIT (International Taxation), Vs. Heidrick and Struggles Inc. (2024) 461 ITR 33 (Del.) and also of Chandigarh Bench in the case of Nikka Mai in ITA Nos. 1252 to 1255/Chd/2016 & Others.

6. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

19. In this year, the facts are totally identical in so far as the wrong claim of deduction made by the then by their Counsel as stated above while adjudicating the appeal for AY 2018-19 and the CPC had made the disallowance, since the deduction for this Assessment Year 2019-20 was claimed under wrong sub clause of Section 10(23C). There is no order u/s 143(3) thereafter and the assessee filed an appeal before the Ld. CIT(A) and it was argued that the facts are identical to the case for AY 2018-19.

20. The ld. CIT DR, however, drew our attention to the finding given by the ld. CIT(A) at page 9 of the order wherein, the ld. CIT(A) has stated that for claiming of deduction u/s 10(23C)(vi), the tax audit report as well as the registration u/s 12A is required and since the assessee has not produced the copy of 12AA registration certificate and has further mentioned that the deduction under sub clause (iiiab)

of Section 10(23C) is only available if it is substantially financed by the Government for any previous year, thus, the exemption was disallowed. The Ld. Counsel of the assessee argued that as per facts brought on record that the assessee is substantially financed which is evident from the grants received in the year under consideration to the tune of Rs. 421.44 crore out of Rs. 530.26 crore receipts and thus, it is a substantially financed university and for substantially financed university there is no requirement of audit as per tenth proviso which specifically excludes conducting of audit/report u/s 44AB and the report of such audit in prescribed form if the claim of the exemption falls u/s 10(23)(iiiab).

22. We have gone through the facts and the arguments as advanced by both the parties and though the facts & circumstances are the same as in appeal for AY 2018-19 and we have also gone through the observation of the ld. CIT(A) at page 9 of the order and also gone through the arguments of the Ld. Counsel wherein, he has pointed out that the said audit report as mentioned supra is not applicable where the claim of assessee is entitled to the exemption u/s 10(23C)(iiiab) and it was only when it was inadvertent mistake on the part of the then counsel CA, DP Singh that wrong section was mentioned for claiming the exemption while filing the return of income and thus, after going through the relevant proviso as pointed out by the Ld.

Counsel, we hold that the said condition of the audit report u/s 44AB and 12A registration is not required to the university. Thus, in nutshell, it was merely a mistake on the part of the counsel in claiming the exemption by mentioning wrong sub-clause of Section 10(23C) and therefore, following our findings in AY 2018-19, we hold that the assessee is entitled to exemption u/s 10(23C)(iiiab) as it is substantially financed by the Government and our findings in the AY 2018-19, would squarely be applicable to the AY under consideration.

23. Thus, it is clear that as already stated above that due to the mistake of the earlier Counsel of the Assessee who claimed deduction by putting wrong section in the return of income should not be considered the culpability of the Assessee. Accordingly, we are of the considered opinion that Assessee's appeal on grounds in both the assessment years i.e., 2018-19 and 2019-20 should be allowed.

24. In the result, Assessee's appeal for A.Y. 2018-19 and 2019-20 are allowed.

Order pronounced on 18.12.2024.

Sd/-
(PARESH M JOSHI)
Judicial Member

“आर.के.”

Sd/-
(KRINWANT SAHAY)
Accountant Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar