

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2161/Bang/2024
Assessment Year: 2024-25

M.V. Karmari Charitable Trust 34761/31/34 Behind Ayyappa Temple Sirur Park, Vidyanagar Hubli Hubli Unkal SO Hubli Dharward 580 031 Karnataka  <b>PAN NO : AAHTM4598C</b>	<b>Vs.</b>	CIT(Exemptions) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Siddesh N Gaddi, A.R.
<b>Respondent by</b>	:	Ms. Nandini Das, D.R.

<b>Date of Hearing</b>	:	17.12.2024
<b>Date of Pronouncement</b>	:	20.12.2024

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against order of ld. CIT(A) Exemptions) Bangalore dated 12.10.203 vide DIN & Notice No.ITBA/EXM/F/EXM45/2023-24/1056999705(1) and application No.CIT(Exemptions)Bangalore/2023-24/12AA/11199 for the AY 2024-25 rejecting the registration u/s 12AB of the Income Tax Act, 1961 (in short “The Act”).

2. The assessee has raised following grounds of appeal:

1. The Learned Commissioner has erred in law and on facts in passing an order rejecting the application under section 12AB of the Income-tax Act, 1961, in the manner he did;
2. The order is passed in violation of the principles of natural justice and therefore bad in law;
3. The Learned Commissioner ought to have appreciated that the Appellant institution is a charitable institution Trust and that the Appellant had satisfied the conditions required and ought to have granted the recognition under section 12AB of the Act;
4. The Learned Commissioner ought to have appreciated that the Appellant had not violated any of the conditions laid down in section 12AB of the Act and ought to have granted the recognition as prayed for.
5. The Learned Commissioner has erred in law and on facts in making contrary statements with respect to the charitable activities of the Appellant;
6. The Learned Commissioner has erred in law and on facts in imposing non-existent conditions on the Appellant;
7. The Order of the Learned Commissioner has fallen in error of facts as well as in law as the basis of rejection is based on an incorrect assumption of facts rendering the impugned order to be perverse;
8. The Learned Commissioner has erred in questioning the nature of activities without establishing any defect or infirmity in the documents as already submitted;

On the basis of the above grounds and other grounds which may be urged at the time of hearing with the consent of the Honourable Tribunal, it is prayed that the order passed under section 12AB of the Act, to the extent, it is against the Appellant, be quashed and the relief sought to be granted.

**3.** At the outset, the ld. A.R. of the assessee submitted that this appeal is filed belatedly by 338 days before this Tribunal instead of 368 days as mentioned in the application of condonation of delay filed u/s 253(5) of the Act along with an affidavit in original. For the sake of reference and convenience, the application for condonation and affidavit are reproduced below:

**PROCEEDINGS BEFORE THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU**  
**Application for Condonation of Delay under Section 253(5) of the Income-tax**  
**Act, 1961**

Date: 09 November 2024

**The Assistant Registrar**  
**Income Tax Appellate Tribunal**  
**Bangalore**

Respected Registrar,

- 1. Appellant:** M/S. M V Karmari Charitable Trust
- 2. PAN No.:** AAHTM 4598C
- 3. Ref -** Order passed under section 12A(1) of the Income-tax Act, 1961

**Sub: Prayer for Condonation**

**The Appellant above named most respectfully submits as follows:**

1. With reference to the above, I would like to submit that the Learned Commissioner of Income Tax (Exemptions) Bangalore, passed an order under section 12AB of the Act dated 12.10.2023. Assuming the date of the impugned order to be the date of service, the last day by which the appeal should have been made was 11.11.2023. As the Appellant prefers the Appeal now (13.11.2024 leading to the delay of 368 days), the same is barred by limitation in terms of delay, subject to condonation by your kind self.
2. For the reasons stated in the accompanying affidavit, the Hon'ble Tribunal may be pleased to condone the said delay in filing the Appeal by the Appellant, in the interest of justice and equity.

Thanking you,

Yours faithfully,

**MAHADEV V. KARMARI CHARITABLE TRUST**



**President**

**For the Appellant**  
Encl: Affidavit

**INDIA NON JUDICIAL**

**Government of Karnataka**

Rs. 100

**e-Stamp**

**सत्यमेव जयते**

Certificate No.	: IN-KA63136605967881W
Certificate Issued Date	: 09-Nov-2024 12:37 PM
Account Reference	: NONACC (FI)/ kakscsa08/ HUBLI30/ KA-DW
Unique Doc. Reference	: SUBIN-KAKAKSCSA0868821434804504W
Purchased by	: M V KARMARI CHARITABLE TRUST
Description of Document	: Article 4 Affidavit
Property Description	: AFFIDAVIT TO CONDONATION
Consideration Price (Rs.)	: 0 (Zero)
First Party	: M V KARMARI CHARITABLE TRUST
Second Party	: COMMISSIONER OF INCOME TAX CIT
Stamp Duty Paid By	: M V KARMARI CHARITABLE TRUST
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)

Please write or type below this line

**No. of Corrections**  
Nil  
NOTARY

**MAHADEV V. KARMARI CHARITABLE TRUST**  
  
**President**

**NOTARY PUBLIC**  
Chandrashekhara  
Siddannavar  
HUBLI  
KARNATAKA  
Date: 09/11/2024  
Dist: 08/022  
380 029

**Statutory Alert:**  
1. The authenticity of this Stamp certificate should be verified at 'www.shilestamp.com' or using e-Stamp Mobile App of Stock Holding.  
Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.  
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**PROCEEDINGS BEFORE THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU**

**Application for Condonation of Delay under section 253(5) of the Income-tax Act, 1961**

**AFFIDAVIT**

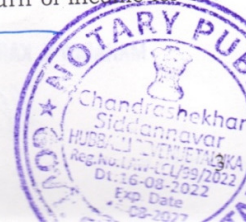
I Mahadevappa V Karmari, Principal Officer of M V Karmari Charitable Trust having registered office at 34761/31/34 Behind Ayyappa Temple Sirur Park Vidyanagar Hubli, Hubli Unkal S.O Hubli Dharward 580031, Karnataka India solemnly swear and state on oath as follows:

1. I am conversant with the facts and circumstances of this case.
2. With reference to the above, I would like to submit that the Learned CIT (Exemptions) Bangalore, passed an order under section 12AB of the Act dated 12.10.2023. Assuming the date of the impugned order to be the date of service, the last day by which the appeal should have been made was 11.11.2023. As the Appellant prefers the Appeal now (13.11.2024 leading to the delay of 368 days), the same is barred by limitation in terms of delay, subject to condonation by your kind self.
3. The Author of the trust is more than 82 years old and has limited access to the email communications. The Assessee Trust does not have any employees to take care of administrative work. The fact that the application has been rejected was noticed on October 3, 2024 at the time of filing of return of income for the

**MAHADEV V. KARMARI CHARITABLE TRUST**

*[Signature]*

No. of Corrections



application has been rejected was noticed on October 3, 2024 at the time of filing of return of income for the assessment year 2024-25. Thereafter, the Appellant took timely action of approaching a consultant at a location different from regular operations of the Assessee and took timely action of filing the appeal.

4. Due to the aforesaid reason, the appeal could not be filed within the statutory time period of 60 days. It is prayed before your Honours to condone the delay to render substantial justice by deciding the matters.
5. It is further submitted and brought to your kind notice that I would have nothing to gain even tangentially/remotely by not filing the appeal on time.
6. It is submit that the aforesaid delay was due to insufficient knowledge of the provisions of the Act and reasonable cause and obviously there was no *mala fide* intention in delaying the filing of appeal.
7. If my prayer is not allowed, the Appellant will be put to immense hardship and would cause irreparable loss & substantial injustice.
8. No injury or hardship would be caused to the other side if my prayer is allowed.
9. Therefore, it is most humbly prayed that such unintended delay may kindly be condoned and appeal be admitted.

MAHADEV V. KARMARI CHARITABLE TRUST,

Director of Corrections

President

NOTARY



Wherefore, I humbly pray before the Hon'ble ITAT, be pleased to condone the delay in filing the Appeal, as prayed for, in the interest of justice and equity.

I state that this is my true name and signature and what is stated above is true and correct to the best of my knowledge, information and belief.

Solemnly sworn on this Friday, November 8, 2024 at Hubli.

Identified by me:  
Advocate.

*(S.S. Prani)*

**MAHADEV V. KARMARI CHARITABLE TRUST**  
Deponent  
*(Signature)*  
**President**

Before Me:

Oath Commissioner

No. of Corrections  
*Nil*  
NOTARY



SOLEMNLY AFFIRMED BEFORE ME  
*(Signature)*  
NOTARY  
11 NOV 2024

**3.1** On going through the application as well as affidavit filed by the assessee, we find that explanation given is Bonafide and it is a good and sufficient reason to condone the delay in filing the appeal before us. It is noted that there is no malafide intention on behalf of the assessee in not filing the present appeal within time. In these circumstances, it may not be said that the assessee is very callous in its approach in filing the appeal before us.

**3.2** While considering a similar issue the Apex Court in the case of Collector, Land Acquisition v. Mst. Katiji and Ors. (167 ITR 471)

laid down six principles. For the purpose of convenience, the principles laid down by the Apex Court are reproduced hereunder:

*(1) Ordinarily, a litigant does not stand to benefit by lodging an appeal late*

*(2) Refusing to condone delay can result in a meritorious matter being thrown at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*

*(3) 'Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational, commonsense and pragmatic manner.*

*(4) When substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a nondeliberate delay.*

*(5) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*

*(6) It must be grasped that the judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

**3.3** When substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right for injustice being done because of nondeliberate delay. As observed by Apex Court, if the application of the assessee for condoning the delay is rejected, it would amount to legalise injustice on technical ground when the Tribunal is capable of removing injustice and to do justice. Therefore, this Tribunal is bound to remove the injustice by condoning the delay on technicalities. If the delay is not condoned, it would amount to legalising an illegal order which would result in unjust enrichment on the part of the State by retaining the tax relatable thereto. Under the scheme of Constitution, the Government

cannot retain even a single pie of the individual citizen as tax, when it is not authorised by an authority of law. Therefore, if we refuse to condone the delay, that would amount to legalise an illegal and unconstitutional order passed by the lower authority. Therefore, in our opinion, by preferring the substantial justice, the delay of 338 days is condoned and the appeal is taken up for adjudication.

**4.** The brief facts of the case are that the assessee trust applied for the registration u/s 12AB of the Act in form No.10AB on 20.5.2023. Thereafter, the case was assigned to the jurisdictional AO for verification. The assessee was granted opportunity of being heard by the jurisdictional AO as well as by ld. Commissioner. Ld. CIT (Exemptions), Bangalore. On perusal of financial statement of the financials of the trust do not show substantial activity towards the object of the Trust. Further in the absence of the Charitable activity towards the condoning of the object of the trust, form No.10AB dated 20.5.2023 filed for registration u/s 12AB of the Act was rejected by the ld. CIT(Exemptions).

**4.1** Aggrieved by the order of ld. CIT(Exemptions) passed in form No.10AD along with annexure dated 12.10.2023 the assessee has filed the present appeal before this Tribunal. Before us, ld. A.R. of the assessee vehemently submitted that on the one hand the ld. CIT(Exemptions) observed that the financials do not show substantial activity towards the object of the trust and on the other hand, the ld. Commissioner (Exemptions) held that in the absence of charitable activity towards the condoning of the objects, registration u/s 12AB of the Act is rejected, which itself is contrary observations. The AR of the assessee submitted that the ld. CIT(A) had rejected the application in a mechanical manner and without application of mind.

**4.2** Further, the ld. A.R. submitted that the ld. CIT(Exemptions) has not disputed that the activity has not been carried out at all but in the opinion of ld. CIT (Exemptions) as the financial do not show substantial activity, he rejected the registration u/s 12AB of the Act.

**5.** The ld. A.R. of the assessee further submitted that the author of the trust is more than 82 years old and has limited access to the e-mail communication. The assessee was in the honest and Bonafide belief that since the assessee has got the provisional registration, the assessee has to apply for renewal of registration only after completion of 3 years and therefore, could not represent his case properly before the AO as well as ld. CIT(Exemptions).

**6.** Ld. D.R. on the other hand supported the orders of the authorities below and vehemently submitted that sufficient opportunity has been granted not only before the AO but also before the ld. CIT(Exemptions) to substantiate its claim.

**7.** We have heard the rival submissions and perused the materials available on record. Since before us ld. A.R. of the assessee vehemently submitted that the author of the trust is more than 82 years old and has limited access to the e-mail communication and further the assessee trust does not have any employees to take care of the administrative work and therefore could not represent its case properly before the authorities. being so, in the interest of justice and equity, we are of the opinion that one more opportunity may be granted to the assessee to represent its case before the ld. CIT(Exemptions), Bangalore. The assessee shall submit all the relevant documents, Bye laws, activity report in support of its claim along with audit reports and financials as required by the ld. CIT(Exemptions) to substantiate its claim. Needless to say, reasonable opportunity of being heard may be given

to the assessee and thereafter the Id. CIT(Exemptions) will pass an order in accordance with law. It is ordered accordingly.

**8.** In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 20<sup>th</sup> Dec, 2024

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 20<sup>th</sup> Dec, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**