

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2033 & 2034/PUN/2024

Kimaya Ashram Charitable Trust, 01 Smart Services, 16 No. Bus Stand, Belithika Nagar, Thergaon, Pune- 411033. PAN : AAFTK4160N	Vs.	CIT, Exemption, Pune.
Appellant		Respondent

Assessee by : Shri Neelesh Khandelwal

Revenue by : Shri Amol Khairnar

Date of hearing : 19.12.2024

Date of pronouncement : 23.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

Both the above captioned appeals filed by the assessee are directed against the separate orders dated 05.08.2024 and 24.07.2024 passed by Ld. CIT, Exemption, Pune rejecting the application for registration in Form No.10AB under sub-clause (ii) of clause (ac) of sub-section (1) of section 12A of the IT Act filed on 12.02.2024 and denying the application for approval in Form

No.10AB under clause (ii) of first proviso to sub-section (5) of section 80G of the IT Act filed on 12.02.2024 respectively.

ITA No.2033/PUN/2024 :

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

“1. On the facts and circumstances prevailing in the case and as per the provisions of the law, it be held that the order passed by the Hon’ble Commissioner of Income Tax Exemptions in rejecting the application filed by the Appellant in Form 10AB u/s 12A(1) of the Act is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration should have been granted. Just and proper relief be granted to the Appellant in this respect.

2. The Appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing.”

3. Facts of the case, in brief, are that the assessee is a trust registered under the Bombay Public Trust Act, 1950 at the Public Trust Registration Office, Pune on 08.09.2023 with an object to promote the teachings of Kimaya guide meditation process and other spiritual practices for attainment of inner peace and spiritual realization, conduct class, workshop, seminars, establishment of Ashrams, Maths, provide spiritual, religious and cultural services to the public through charitable purpose. With a view to verify the genuineness of activities of the assessee and compliance to requirement of any other law for the time being in force by the

institution as are material for the purpose of achieving its objects, a notice was issued by Ld. CIT, Exemption, Pune through ITBA portal on 03.05.2024 requesting the assessee to upload certain information/clarification as mentioned in the notice.

4. The assessee in response to above notice furnished desired details. After verifying these details, Ld. CIT, Exemption, Pune found certain discrepancies and asked for their clarification by notice dated 11.07.2024. Ld. CIT, Exemption, Pune found that the assessee has filed application in Form No.10AB under sub-clause (ii) of clause (ac) of sub-section (1) of section 12A of the IT Act which suggests that the assessee has applied for renewal of regular registration of a trust which is already having regular registration u/s 12AB of the IT Act and the period of said registration is about to expire but the assessee has not filed copy of regular registration. It was further found by Ld. CIT, Exemption, Pune that the assessee has obtained provisional registration under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the IT Act, therefore, the application made by the assessee is not under applicable clause. Since the assessee did not comply with above notice, the application filed by the assessee was treated as not

maintainable and hence the same was rejected for statistical purposes without going into the merits of the case and no adverse inference was drawn against the assessee. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT, Exemption, Pune is not justified. It was submitted by Ld. counsel of the assessee that due to typographical error the application was furnished in Form No.10AB u/s 12A(1)(ac)(ii) instead of u/s 12A(1)(ac)(iii) of the IT Act. It was submitted before the Bench that under identical facts the Co-ordinate Bench of this Tribunal in the case of Help For Children In Need Foundation vs. CIT, Exemption, Pune in ITA No.1774/PUN/2024 order dated 09.12.2024 has decided the issue in favour of the assessee and remanded the matter back to Ld. CIT, Exemption, Pune with a direction to treat the application of the assessee as filed under correct/desired section of the IT Act and consider the same for grant of registration u/s 12A of the IT Act in accordance with law. Ld. Counsel of the assessee also relied on various other Co-ordinate Bench decisions involving the similar issue wherein the appeal was decided in favour of the assessee.

Accordingly, it was requested before the Bench to set-aside the order passed by Ld. CIT, Exemption, Pune and further requested either to consider the amended application filed by the assessee on 07.11.2024 or to consider the original application as filed under correct/desired section in this regard.

6. 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.

7. We have heard Ld. Counsels from both the sides and perused the material available on record including the two paper books furnished by the assessee. We find that the assessee trust was required to file the application for registration u/s 12A of the IT Act in Form No.10AB u/s 12A(1)(ac)(iii) of the IT Act but due to typographical error the application was filed in Form No.10AB u/s 12A(1)(ac)(ii) of the IT Act. We also find that Ld. CIT, Exemption, Pune has rejected the application of the assessee on the basis of above technical error and at the same time on merit of the case no adverse inference was drawn by him against the assessee. We find that the assessee has relied on the decision of the Co-ordinate Bench of the Tribunal in the case of Vir Sewa Mandir

vs. CIT (Exemption) in ITA No.1556/DEL/2024 order dated 09.08.2024 wherein under identical facts and similar circumstances, the Tribunal has allowed the appeal of the assessee by observing as under :-

“7. We have heard both the parties carefully. It is evident that the appellant/ assessee had committed a technical mistake in preparing the application under Section 12A(1)(ac)(ii) instead of 12A(1)(ac) of the Act. It was also brought to the notice of the Bench that the assessee had filed revised Form 10AB for seeking registration under the correct provisions i.e. Section 12A(1)(ac)(iii) of the Act which could have been considered by the learned CIT(Exemption).

8. In the light of the latest decisions in Sri Jeyamkonda Chaleeswara Soundaranayakai Amman Kumbhabiskheka Mala Kuthu and Raj Krishan Jain Charitable Trust's cases (supra), the typographical error deserves to be corrected. Therefore, it would be appropriate and reasonable if the appeal is remanded back to the file of the learned CIT(Exemption) for fresh adjudication by considering amended application of the appellant under the repaired provisions

9. Hence, appeal is allowed for statistical purposes.”

8. Considering the totality of the facts of the case and respectfully following the above decision of the Tribunal in the case of Vir Sewa Mandir (supra), we find force in the arguments of Ld. Counsel of the assessee and accordingly deem it appropriate to set-aside the order passed by Ld. CIT, Exemption, Pune and remand the matter back to him with a direction to decide the issue afresh after treating the original application as filed by the assessee under correct/desired section i.e. section 12A(1)(ac)(iii) of the IT

Act. The assessee is also hereby directed to respond to the notices issued by Ld. CIT, Exemption, Pune in this regard and produce specific documents/evidences desired by Ld. CIT, Exemption, Pune in support of application for registration u/s 12A of the IT Act 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.

9. In the result, the appeal filed by the assessee in ITA No.2033//PUN/2024 is allowed for statistical purposes.

ITA No.2034/PUN/2024 :

10. The instant appeal is against the order passed by Ld. CIT, Exemption, Pune denying grant of approval u/s 80G(5) of the Act. Since we have remanded the issue of grant of registration u/s 12A(1)(ac)(iii) to the file of Ld. CIT, Exemption, Pune for *de novo* adjudication, therefore, in the interest of justice, it would be appropriate to remit the issue of grant of approval u/s 80G(5) as well to the file of Ld. CIT, Exemption, Pune being consequential, for *de novo* adjudication on the basis of application already filed

by the assessee after treating the same as filed under correct/desired section of the IT Act.

11. In the result, the appeal filed by the assessee in ITA No.2034/PUN/2024 is allowed for statistical purposes.

12. To sum up, both the above captioned appeals filed by the assessee are allowed for statistical purpose.

Order pronounced on this 23rd day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd 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, "A" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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